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*Canada*  
ROYAL COMMISSION  
ON  
TRANSPORTATION

EVIDENCE HEARD ON

MAR 24 1950

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# ROYAL COMMISSION ON TRANSPORTATION

Ottawa, Ontario.  
Friday, March 24/50  
Index Page #124

T. H. COOPER - Recalled. Cross examination by Page  
Mr. Evans resumed - - - 19052

S. W. FAIRWEATHER - Called. Examined by  
Mr. O'Donnell - - - 19106

EXHIBIT No.258: Map of Canadian National  
Railways showing present  
main lines, duplicate main  
lines, and branch lines in  
black, green, and red res-  
pectively - - - - - 19121

Noon adjournment - - - - - 19124

S. W. FAIRWEATHER - Recalled. Examination by  
Mr. O'Donnell cont'd 19125

EXHIBIT No.259: Map illustrating duplication  
of Canadian National Main  
Line mileage - - - - - 19129

THE CHAIRMAN: Discussion-re Crow's Nest  
Pass Case - - - - - 19173

Adjournment - - - - - 19174

- - - - -





ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO  
FRIDAY  
MARCH 24, 1950.

THE HONOURABLE W.F.A. TURGEON, K.C., LL.D., - CHAIRMAN  
HAROLD ADAMS INNIS - COMMISSIONER  
HENRY FORBES ANGUS - COMMISSIONER

-----  
G.R. Hunter  
Secretary

P.L. Belcourt  
Asst. Secretary  
-----

COUNSEL APPEARING:-

F.M. Covert, K.C.	}	Royal Commission on Transportation
G.C. Desmarais, K.C.		
H.E. O'Donnell, K.C.	}	Canadian National Railways
N.J. MacMillan		
H.C. Friel, K.C.		
C.F.H. Carson, K.C.	}	Canadian Pacific Railway
F.C.S. Evans, K.C.		
I.D. Sinclair		
C.D. Shepard	)	Province of Manitoba
M.A. MacPherson, K.C.	)	Province of Saskatchewan
J.J. Frawley, K.C.	)	Province of Alberta
F.D. Smith, K.C.	}	Province of Nova Scotia; Transportation Commission of the Maritime Board of Trade.

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Ottawa, Ontario,

Friday, March 24, 1950.

MORNING SESSION

T. H. COOPER RECALLED

CROSS-EXAMINATION BY MR. EVANS - (Continued)

MR. EVANS: Q. At the adjournment, Mr. Cooper, I had been discussing the restatement of the results of the Canadian National for 1949 as I had shown them from Exhibit 257. I was then going to give comparable figures for the Canadian Pacific. The Board's judgment of March 1 of this year found, as I think you will agree, that the deficiency of the Canadian Pacific on the new formula they adopted and restating the results of various increases in revenue from other sources during the year as though they had been in effect for the full year amounted to \$29,971,700; and Exhibit 49-181 proved in that case, showed that a 20% increase - and that was the total involved in the application, as you will recall - applied to the traffic volume for 1949, would have given the Canadian Pacific \$28,954,422. That figure which I have just given is almost exactly \$1 million less than the deficiency which they found in their judgment. The question I want to put to you is this. The deficiency, as found included of course a surplus of \$15,235,000; so that when I speak of <sup>a</sup>deficiency of \$1 million as between the deficiency and what 20% would give us, I suggest to you that the effect of a 20% increase as applied to the Canadian Pacific over the full year would have provided, instead of a surplus of approximately \$15 million, a surplus of approximately \$14 million. Have you any reason to doubt that that is

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the result of the Board's judgment, from you knowledge of it?

A. You are speaking entirely with respect to the Canadian Pacific?

Q. Yes. Will you assume that I am correct, because I think I am. What I am suggesting to you is this. On the basis of Exhibit 257, which was put in yesterday, the surplus of the Canadian National would have been \$29 million.

MR. O'DONNELL: That is on an assumed basis also.

MR. EVANS: Quite so; and the assumptions were discussed yesterday.

Q. It assumes a 20% increase in effect for the full year and it assumes the elimination of this adding back of the deferred maintenance credit, which is also common to the Canadian Pacific so that I put against the surplus shown in Exhibit 257 of \$29,223,000<sup>a</sup> surplus on the part of the Canadian Pacific on the same basis of approximately \$14 million. Have you any reason to question that comparison?

A. I do not agree that you should take my Exhibit 246 and change it to meet the Canadian Pacific's views with respect to the adjustments which should be made to the published figures.

Q. Well - -

A. You ask me to make certain assumptions, and on the basis of those assumptions you ask me to confirm that a figure which the Canadian Pacific has compiled with respect to the Canadian National situation is correct. I read in the press this morning that the amount of surplus which may have gone, or would have gone, or could be expected to go into this reserve which has been suggested was in





the order of some fantastic figure of \$250 million to \$280 million. But none of the assumptions underlying those computations are in the press.

Q. I regret that fact as much as you do.

A. May I finish my answer?

Q. Yes, please do so.

A. My thought on that is this. When these figures get in the press and that is the public information, they get a completely wrong conception of what is being proposed unless all the implications and all the assumptions are there. When you ask me to agree that on these assumptions my figures would be restated, I cannot see why I should do it. I have submitted to the Commission what, in my judgment, the 1949 figures for the Canadian National Railways would be if these increases had been put into effect and the relief which our President is asking for had been made effective. My figure is \$13 million. You are asking me to say that it is \$29 million, and I will not say it, Mr. Evans.

Q. Mr. Cooper, I thought I was quite fair; and may I say before I go ahead that I regret that <sup>as to</sup> the reservations that we both had in mind with regard to <sup>them</sup> these figures should have got into the press without indicating what those reservations were. I am sure that you do not attribute to me any suggestion of giving those figures to the press.

A. I do not, Mr. Evans; not at all.

Q. It would not have been part of my code that that should have happened, Mr. Cooper.

A. But it did happen.

Q. I know, but we have often had misrepresentations about the Canadian Pacific in the press, Mr. Cooper.





MR. O'DONNELL: May I just say this, my lord. It occurs to me that after all this gets down to the matter of argument. My friend makes a computation which he suggests to the witness displays a certain position and he is suggesting <sup>that</sup> / on two or three assumptions that are tied in with it the position might be something other than it would appear to be at first sight. I just draw to the attention of the Commission <sup>as to</sup> / this document which is not in but which is being referred to, the fact that it starts off with a figure which is the total revenue deficiency of the Canadian Pacific as determined by the judgment of the Board dated February 28, 1950. That is not a figure comparable with the figure on Exhibit 257. Exhibit 257 starts off with the net income deficit of the Canadian National Railways. The deficiency as shown by the Board of Transport Commissioners is another type of computation. I think Mr. Cooper is quite right in saying that, after all, he should not be asked to make statements concerning the figures of the Canadian Pacific Railway Company. I do not think those two figures at first sight are strictly comparable. In any event, Mr. Cooper's position is, I think, fair enough in these circumstances.

MR. EVANS: I am sure that my friend does not understand what I have in mind, and I should like to make it perfectly clear. I said yesterday that I wanted to show for the Canadian Pacific what the result would have been restated as Mr. Cooper's Exhibit 246 restated that of the Canadian National.

MR. O'DONNELL: I have no objection to that.

MR. EVANS: I say this. We all agree at this stage, as far as the Canadian National and ourselves are



concerned that both feel that a 20% increase in rates which is now being applied for is necessary. I was merely restating both the Canadian National and Canadian Pacific results as though that 20% increase had been in effect for 1949, because it seemed to me that to restate the Canadian National results on the basis of 16%, when we believe it should be 20%, does not give full effect to the surplus position if we succeed; and as long as both results are restated on the same assumptions, my thought was that there is a basis for comparability. With regard to the other item, the Commission will remember that in Exhibit 246 there was an item of \$8 million entitled "Elimination of Special Credit from Deferred Maintenance Reserve." That item represents an adding back, as it were, to the net income deficit of an amount which was taken out of a deferred maintenance reserve instead of charging that amount to expenses for maintenance.

(Page 19059 follows)





Now, we had a similar item of  $7\frac{1}{2}$  million and I just eliminated in arriving at the comparison, I eliminated it from both, and I thought that produced a basis of comparability. I have no desire to be unfair to my friends. I am merely entitled, I think, to point to what would have happened had we had this increase which we both applied for, in effect for the full year and on the same assumptions as to the use of the deferred maintenance fund. I think it is a fair comparison and there is no attempt on my part to embarrass anybody.

THE CHAIRMAN: No, I agree with that, I am sure of that, but what is there to prevent you calling your own accountants to show how these figures have operated in your case? Have you not Mr. Liddy here for instance?

MR EVANS: We have him here.

THE CHAIRMAN: Wouldn't that be more satisfactory than asking the accountant of another railway to do your computations for you?

MR EVANS: Well, I am content to do that.

THE CHAIRMAN: It seems to me that would be much better.

MR EVANS: I think I do not even have to call---

THE CHAIRMAN: Especially when Mr. Cooper says - and he must have reasons for it, because he is an expert - that he cannot very well do what you want him to do.

MR EVANS: Well, these figures are in the Board's judgment and in the Board's exhibits, and I am taking---

THE CHAIRMAN: They may be all right and they may prove the case that you have in mind, but it seems to me the best way to do it is out of your own witnesses.

MR EVANS: Yes, may I not take it that the





records of the Board in the 20% Case are part of this record here?

THE CHAIRMAN: The record of the what?

MR EVANS: The Board in the 20% Case.

THE CHAIRMAN: The judgment you mean?

MR EVANS: The judgment and the exhibits.

THE CHAIRMAN: And the documents that support the judgment?

MR EVANS: Yes.

THE CHAIRMAN: Is there any objection to that?

MR O'DONNELL: I have no objection to that at all, my lord,

MR FRAWLEY: My lord, may I just say this with regard to the draw-downs of the maintenance fund. There is, as I recall, a material difference <sup>between</sup> the idea of the Canadian Pacific Railway in connection with these draw-downs and the idea of the Canadian National Railways. Mr. Cooper told us, and if we did not know until now we do now know, that the Canadian National built up their reserves of deferred maintenance with the thought that they should all be drawn down and paid out within a certain limited period of five years. Mr. Cooper told us that the Canadian National in the revenue case before the Board said that that deferred maintenance fund was to remain in the deferred maintenance fund for just as long as it was required to be drawn upon for what? To pay that portion of maintenance over and above normal maintenance, and the question then arose: what is normal maintenance? And that got to be quite a problem before the Board of Transport.

Now, I think it is important that the Commissioners should have that in mind when Mr. Evans is drawing a parallel between the two railways and endeavouring to





identify them in this matter of draw-downs from the deferred maintenance fund. Mr. Cooper told us, no, that it was only put in with the idea that regardless of everything else it was to be taken out in five years. Now, that is not the Canadian Pacific idea as I have always understood it, and I think that distinction is something that should be born in mind by the Commissioners when Mr. Evans is endeavouring to draw a parallel between the Canadian Pacific situation and the Canadian National situation.

THE CHAIRMAN: It is all right for you to interject that now, and it puts us on our guard, as you say, but it would be better to wait until we have the parallel drawn and then take whatever objection---

MR EVANS: Of course my friend Mr. Frawley has either completely misconstrued the point I am making about deferred maintenance or else he is arguing the question of deferred maintenance, but I had no intention of arguing the question as a question of deferred maintenance at all.

Q. However if I may pass on, Mr. Cooper, I think we could go this far with you perhaps without offence, that at all events until the Canadian National does pay income tax, a dollar of increased revenue due to rate increases to the Canadian Pacific would substantially yield 65¢, whereas a dollar to the Canadian National would yield a full dollar.

A. You are ignoring the fact, of course, that to begin with we are not taxable for the simple reason that we have no income.

Q. I am not quarrelling with you. I just wanted to have it clear that assuming we both met our fixed charges and we are going for an increase in rates which is going to add something to our net, a dollar obtained through an



increase, for the Canadian National is a full dollar until you do pay income tax, if you do; whereas in the case of the Canadian Pacific it amounts to 65¢ in net.

A. That seems to me to assume or infer that the 35¢ is paid by the Canadian Pacific Railway Company.

Q. No, I think I see what you mean, that the roadway does not pay it, but I am saying that as regards the financial position of the Company and its ability to earn a surplus or to pay dividends, a dollar increase in revenue as the result of an increased rate means only 65¢ net to the Company; whereas in your case until you do pay income tax it means a dollar of net.

A. But on the other hand if you include the 35¢ in your requirements and you recover by an increase in freight rates your requirements, it seems to me that the shippers have paid your income tax rather than the Company or its shareholders.

Q. Yes, but if the shipper pays a dollar to the Canadian Pacific as a result of an increased rate, 35¢ of that is income tax and 65¢ is net to the Company; whereas his dollar all goes to the Canadian National surplus.

A. Well, that again seems to assume that your tax would be 35% of your gross revenue.

Q. Oh, no, Mr. Cooper. Let us not be under any misapprehension about that. Let us assume that both Companies are barely earning their fixed charges.

A. May I interject? Now, the Canadian National is not in the income tax class at all at present.

Q. No, I know.

A. So if you confine your statements to the Canadian Pacific and put the question to me, I will try and answer it; but you were in effect putting the question to me,





as I understood it, that if you earned a dollar you paid 35¢ of that dollar--

Q. No, no,

A. Excuse me, I would like to finish my answer - 35¢ of that increase disappeared through the income tax door. Of course that is not correct.

Q. Of course I never inferred any such thing, Mr. Cooper. I said a rate increase produced very largely net revenue. You cannot assume we have not got revenue enough to pay our fixed charges. We have never yet failed to pay our fixed charges. So that so far as the effect of the dollar resulting from the increased rate, not gross revenue but resulting from an increased rate, is concerned, of that dollar as a generality 35¢ goes in income tax and 65¢ reflects itself in the net earnings of the Canadian Pacific. I would have thought that was almost a truism.

A. I am not quite sure, it is correct because in computing your dollar requirement you increase it by the tax which will later be deducted from it.

Q. Of course we do, but I am speaking from the standpoint of an increased dollar paid by a shipper as the result of an increased rate. Now, of that increased dollar, 35¢ goes in income tax and 65¢ goes in net. Now, all I am saying to you is that if you arrive at our figure having regard to income tax, you get a different result in the case of Canadian National because there is no income tax to worry about.

A. Of course you can say the same thing about a wage increase, that you only pay 65% of the wage increase.

Q. I quite concede that, yes.

A. Well, wouldn't it be better, Mr. Evans, (and excuse me making the suggestion) that if you make these state-

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statements of your own accord to the Commission I don't see that I am called upon to support them or correct them.

Q. Well, if you prefer, leave it that way. I am quite content.

COMMISSIONER ANGUS: Mr. Evans, I don't want to interrupt that argument, but would what you said about the income tax remain true if the Government went through with its policy of removing double taxation? I mean, would the Canadian Pacific Railway still show income tax as a requirement if the whole of the income tax were offset by an exemption to the taxpayer?

MR EVANS: I am not sure that I follow you but I gather what you mean is that if the income tax department should say with regard to the security holders of the Canadian Pacific that they would pay no income tax on their earnings from the securities, but that the tax would nevertheless be levied against the Company as such upon its earnings after fixed charges. Is that it?

COMMISSIONER ANGUS: Yes.

MR EVANS: Then I would think this, that the tax is at least payable once and I think should make no difference so far as the shippers' charges are concerned, because once the tax has been levied against the Company inevitably it becomes part of the Company's cost of doing business. Now, then, after the dividends are paid or the interests are paid on the securities, it seems to me that then the money is out of the Company's hands, it is out of the shippers' hands, and then really becomes a tax against the shareholder as such or the security holder as such.

COMMISSIONER ANGUS: My answer to that would be, isn't the shipper in substance paying for a tax exemption



that goes to the shareholder in the Canadian Pacific? If you have been paying a rate of dividend before the corporate income tax was imposed and continue that rate afterwards unchanged and then the corporate income tax is transformed so that the tax exemption goes to the shareholder, he would have benefitted by that series of events and by getting, not so many dollars subject to personal income tax, but by getting the same number of dollars free of personal income tax; and the shipper would really be paying in part the tax exemption by which the shareholder was benefitting. Now, if you apply that argument (I am making rather a short cut), is not what is deductible in respect of the 1949 income not the total income tax paid by the company, but the income tax minus ten percent of its dividends.

MR. EVANS: I think I see where you get to. You have quite a problem when you try to follow that through to the security holder because any retained earnings never do reach the security holder and are therefore not taxable in any case in his hands. Now then, you get the equivalent result, but perhaps I have not seen through --

COMMISSIONER ANGUS: Well, the tax exemption which the security holder gets is 10 percent of his dividend.

MR. EVANS: Yes.

COMMISSIONER ANGUS: And that 10 percent of his dividend could conceivably be deducted from the income tax charge of the company on the grounds that they pay it to the shareholder. It would be possible.

MR. EVANS: It is possible, but you might have another security holder who might have his sole source of livelihood from the dividends of the Canadian Pacific. He might have that as a necessary basic exemption. But perhaps I don't follow all the implications of that.

COMMISSIONER ANGUS: Well, the implication would be





if my point were right (I suppose it is really a point for the Board of Transport Commissioners and not for this Commission) that the proposition to get 65 cents in revenue we must charge the shipper a dollar, would become that to get 65 cents in revenue we must charge the shipper about 90 cents.

MR. EVANS: I see.

COMMISSIONER ANGUS: And that might make quite a difference in computing the level of freight rates. I have no doubt it will be argued before the Board, but I think we might indicate it here because it affects this comparison between the two companies.

MR. EVANS: I would like to consider the implications of that and how it could be done, but I don't know whether you know the extent of the holdings in the United States and in Britain. The majority of the holdings are in the United States and in Britain, and whether that could be worked out as a ---

COMMISSIONER ANGUS: Well, the position of the foreign shareholders is governed by international conventions which no doubt would be modified suitably to take account of the various situations.

MR. EVANS: Well, I must say that I have not considered the implications of it.

Q. Then just a further question, Mr. Cooper. I understood you to say yesterday that in regard to this exhibit 246 the surplus of 13 million which you showed on that exhibit on the deductions you made there, would be wiped out by a decrease in traffic volume of  $2\frac{1}{2}$  percent. Do you recall that statement?

A. Yes.



Q. That statement I should think would only be true with an operating ratio of 100 per cent?

A. No, I do not agree with that.

Q. Well, \$13 million as a percentage of your gross of say \$500 million is roughly  $2\frac{1}{2}$  per cent, and you say a drop in traffic volume of  $2\frac{1}{2}$  per cent, which would be about the \$13 million in gross, would wipe out that figure in net. That was what I understood your statement to mean. Now, does that assume an operating ratio of 100?

A. As far as that particular  $2\frac{1}{2}$  per cent is concerned, yes, and I am prepared to stand on that. I feel that on a minor recession of traffic in the order of  $2\frac{1}{2}$  per cent there would be no noticeable reduction in expense.

Q. I would have thought -- and I only suggest this to you -- that with a minor accretion or reduction in traffic the measurable out-of-pocket costs would be rather small, and that perhaps is what you had in mind?

A. That is what I have in mind. If you have 100 passengers on a train and  $2\frac{1}{2}$  of them fall off or do not appear, the cost of running that train is not diminished at all. Your revenue is diminished by  $2\frac{1}{2}$  per cent.

Q. Well, I think you and Mr. Liddy were in agreement on that, because I think he said the same thing. That was particularly true of passenger traffic?

A. I think the same thing would apply to freight. I do not say there would be no reduction in expense, but I say it would be very negligible, and, with respect to what we are talking about, it is, I would suggest, a bagatelle. I pointed out that as against the  $2\frac{1}{2}$  per cent we had an 8 per cent reduction.

But at this point, if I may, my lord, I would like to correct my evidence of yesterday. I said that with all these things done -- I was speaking of the 1950





budget -- we would have a surplus of \$2 million, and I should have said that we would have had a deficit of \$1,400,000. I would just like---

MR O'DONNELL: Q. What page would that be, Mr. Cooper?

A. 18944. I had been doing some mental arithmetic, and I took our budget, I deducted the increase which went into effect yesterday, I applied the relief which the President had suggested, and in my mind I said the result is a surplus of \$2 million, but I should have said a deficit of \$1,400,000. So as things stand for 1950, and apart from any wage increases, if our budget is realized, all these things done, we shall have a deficit of \$1,400,000.

MR EVANS: Q. May I suggest to you that with those conditions of declining traffic volume and the same condition existing as to operating costs upon which you make such an estimate for 1950, those conditions would also apply in equal measure to the Canadian Pacific?

A. I do not see why I should have to discuss the Canadian Pacific in this matter at all.

Q. Well, Mr. Cooper, I think it is only fair that at least we should not take the position that the Canadian Pacific is something that is in a closet somewhere. We cannot discuss by way of comparison, because, after all, I have been trying to suggest to you that, without trying to deny you relief, one must consider the method by which the relief could be afforded while protecting the Canadian Pacific. Now, my duty to my people -- and I really think to the Commission -- is to draw these comparisons without any ill will whatever, without making any suggestion of impropriety against anyone, but to make honest and fair comparisons, and if I am not making fair comparisons I want



you to tell me and I want my friend to tell me, because my earnest desire is to make them fairly, in order that the true perspective may result in an appreciation of the position of our company. Have I made myself clear?

A. Yes, but you have not changed my thinking. I still think that---

Q. I thought perhaps I had.

A. I still think that if you wish to speak for the Canadian Pacific before this Commission you have liberty to do so, but why you should have me as a spokesman for bringing out facts with respect to the Canadian Pacific I just cannot see.

Q. Well, perhaps you misunderstood me. I at no time suggested that you should be the spokesman, but I did suggest that it would be valid in my cross-examination of you to make comparisons. Perhaps we should not spend too much time discussing it. I am going to pass now to the matter of uniform accounting for a moment, and then I want to go shortly to depreciation. I think you will agree with me, Mr. Cooper, that---

THE CHAIRMAN: Can you tell me what page, Mr. Evans?

MR EVANS: Well, it is the very last part of Mr. Gordon's statement. I am not going to go into detail about it.

THE CHAIRMAN: Oh, Mr. Gordon's statement?

MR EVANS: Yes. The brief of the Canadian National and Mr. Gordon's statement advocate uniform accounting, and I am merely going to ask two or three questions about it.

THE CHAIRMAN: Do I understand, before you begin that both companies are agreed in principle on uniform accounting?

MR EVANS: Yes, sir.





THE CHAIRMAN: Provided it is not too uniform.

MR EVANS: I do not think that perhaps is our view. I think the suggestion we made, sir, was this, that with regard to depreciation it was perhaps wiser not to strive for uniformity, complete uniformity, to the point where you might deprive either railway of the option to have that method of depreciation which was considered most suitable to it. My friends of the Canadian National in their brief make it quite clear that there are special considerations pertaining to that company, and they prefer the straight line. Now, unless you can have the two companies in effect privately owned on exactly the same basis, my suggestion to you is that special considerations might require a departure from uniformity in permitting the Canadian National to have its straight line and permitting the Canadian Pacific to have its user method.

THE CHAIRMAN: I understood that to be your point.

MR EVANS: But I do suggest, sir, that uniformity is primarily there, and I suggest this, that when you say to me, sir, that we do not want too much uniformity, I suggest in reply that you cannot have absolute---

THE CHAIRMAN: Do I not understand that both companies think this should be left to the Board?

MR O'DONNELL: That is our view.

THE CHAIRMAN: And you say the Board should leave you free to---

MR EVANS: Yes; and I understood until Mr. Cooper gave his evidence that that was also the position of the Canadian National in their brief.

THE CHAIRMAN: I understand their position now to be that the Board should select some method and impose that on both.

MR EVANS: Yes.



THE CHAIRMAN: Q. That is right, isn't it?

A. Yes.

THE CHAIRMAN: Now, that is the difference between you. I just wanted to find out what it was.

MR O'DONNELL: I think that was our submission throughout, my lord, on the brief -- page 80 and so on.

THE CHAIRMAN: Then in that case you want the uniformity to be absolute.

MR O'DONNELL: Well, if there is to be uniformity I think our position is, it should be uniformity. On the other hand, we contend for one type of accounting on a certain matter and our friends contend for another. Mr. Cooper, I think, has said, "Well, we will do our best to have our view prevail, but in the final analysis the Board will determine the matter, and we will abide the outcome. Isn't that your position, Mr. Cooper?"

A. Yes, sir.

THE CHAIRMAN: That is what I understood. I just wanted to make sure there was no misunderstanding here on what does separate you.

MR EVANS: You see, on page 105 of the Canadian National brief there is a little three-line paragraph which reads as follows:

"It is respectfully submitted that in any revision of the Canadian accounting classification, Canadian National be permitted to continue its present practice."

Now, that I interpreted as meaning that there was also in the mind of the Canadian National, as there was in ours, that there should be option to the companies to adopt that form of depreciation which each thought was suitable to its needs.

THE CHAIRMAN: Well, that paragraph would seem to





mean that.

MR O'DONNELL: That paragraph, I think I should just say, relates strictly to rolling stock. We will certainly urge before the Board that our view should prevail, but we will have to abide by the Board's judgment.

THE CHAIRMAN: Your view as set out in this paragraph is simply that you be left free.

MR O'DONNELL: That is on the rolling stock. As your lordship pointed out the other day, it relates strictly to rolling stock, but I think our position would be the same on anything. We will try to have our views prevail; they may not, but we will abide by whatever order the Board makes.

THE CHAIRMAN: In that case you would no longer be free.

MR O'DONNELL: No, ultimately we would have to abide by whatever judgment the Board decided upon. That is the position, I think.

THE CHAIRMAN: That only declares once again the difference between the two companies.

MR O'DONNELL: We are the same in many, many instances. Our practices are much the same, as Mr. Evans has said, in many, many instances. There are some differences, and we will contend for ours and they will contend for theirs, possibly, and the Board will rule which is to prevail.

MR FRAWLEY: My lord, I think it is well for the rest of us to understand. I rather thought that when Mr. Liddy left the box it was understood that the Canadian Pacific also said that they wanted uniformity, and they would go before the Board, they would urge their views, and in the end they would accept whatever ruling was made. It seems to me there is complete parity between the two



roads, and that is what I have understood.

MR EVANS: I think my friend Mr. Frawley is exactly right, except as to this point, that the Canadian National, according to the evidence of Mr. Cooper, would urge to the Board that there must be uniformity in depreciation practices. The Canadian Pacific would argue to the Board that there need not be uniformity, but of course it would have to abide by the decision of the Board, just as any other railway company has to abide by its decision.

MR FRAWLEY: No, that is a little bit different. I rather thought this Commission was being asked first to recommend that there must be uniformity, then the working out of the uniformity is to go before the Transport Board, in the making of these uniform classifications. I thought that we all agreed that this Commission should recommend there be uniformity.

THE CHAIRMAN: Well, Mr. Evans wants to be free before the Board to argue that, whatever happens to the Canadian National, the Canadian Pacific should be left free to use its own method of depreciation. Isn't that it?

MR EVANS: Yes, sir.

THE CHAIRMAN: And if the Board did not grant that, then you would have to accept the ruling of the Board.

MR EVANS: Yes, sir.

MR FRAWLEY: That is quite different, then. Then the Canadian Pacific is not seeking a recommendation from this Commission that there should be uniformity established, and then we go to the Board and the Board tells us what methods to bring about that uniformity be used. Of course, if that is the situation, then this Commission is not being asked; the Canadian Pacific is opposing the views of other people who say that this Commission, either by changing the statute or otherwise, should direct the Board to require





uniformity, then the manner in which that uniformity is brought about, either by making both methods user or by making both methods straight line, and whether roadway should be depreciated or not, those are all matters to be worked out by the Board. I thought there was uniformity between us all in that recommendation; apparently there is not.

MR EVANS: My friend Mr. Frawley has again misconstrued what I said. There never has been an agreement between Mr. Frawley and me on this subject. I am going to state now exactly what my position is, Mr. Frawley, as I have stated it on several occasions. I said if this Commission feels it must recommend complete uniformity in depreciation methods as a necessary incident to uniform accounting, then they should recommend the user method; but I strongly urged this Commission, and I still do, not to make such a recommendation, to recommend uniform accounting, leaving it to the Board to decide whether one or other or both methods should be used for depreciation. Now, I cannot make it any clearer than that, and I hope my friend understands me.

MR FRAWLEY: You do, then, share the view of the provinces, that this Commission should recommend that there be uniform accounting. Now, it goes to the Board to select the particular method, and one view will be urged and another view will be urged, and in the end---

MR EVANS: Surely this is an endless discussion, Mr. Frawley.

MR FRAWLEY: Please! I am subject, not to your views, Mr. Evans, but to the views of the Commission.

MR EVANS: I was cross-examining a witness.

MR FRAWLEY: Please, please!

MR CARSON: If my friend Mr. Frawley---



THE CHAIRMAN: What is it you wish to say?

MR FRAWLEY: Now we have Mr. Carson interrupting; what that is worth I don't know -- not much, in my opinion. I was addressing the Commission, sir, endeavouring to clear up this thing, which seems to be somewhat confused. I think we are entitled to know precisely what the views are, and if my friend says it is so clear, perhaps we might pursue it by running it through the transcript someplace. I think it would be a simple matter to state to the Commission what the situation is, and for me to be interrupted and abused by counsel when I am addressing the Commission is just a little more than I appreciate. I am satisfied, sir, that the Canadian Pacific should state to the Commission what its views are, and I thought, perhaps mistakenly, that there was unanimity between everybody that this Commission should recommend that there be uniformity of accounting, and then before the Board the particular method would be selected, that is all.

MR EVANS: My friend talks about being abused.

MR FRAWLEY: Yes, I do.

MR EVANS: If my friend will read the transcript he will find an exact duplicate of the statement I made this morning in that transcript.

Q. Now, Mr. Cooper, just to begin this discussion of uniform accounting, I assume that you would agree with Mr. Liddy when he was in the witness box and he said that he felt that uniform accounting could only be accomplished by joint consultations between the railways and the Board?

A. If Mr. Liddy meant by that that there should be some kind of round table conference where the principles would be worked out to a mutually satisfactory arrangement, I do not think I would agree with that. I feel that Parliament will place responsibility on the Board to pre-





scribe a uniform accounting and to prescribe the classes of property which shall be subject to depreciation accounting, and that responsibility placed on the Board is not one to be shared with the railways.

(Page 19079 follows)



I think that it will be for the Board to determine what the classification shall contain, and the railways will have to accept that whether they like it or not. I think that the Board would be well advised to consult with the railways. I think they would be foolish not to take advantage of the experience and judgement which we may have. But beyond getting our views and placing some evaluation on them, I do not think that this conference or series of conferences would go. What I am saying, Mr. Evans, is this. If the Board must get our concurrence in a conference before they can decide what the classifications are going to be, I think that would not be a sound position to advance.

Q. All I am suggesting to you is that the Board would certainly have to have before it the problems that a railway accounting officer has to meet from day to day in order to determine whether or not the classification should take a particular form; surely that is so?

A. The Board, in my opinion, should discuss these things with us and should get the point of view of the industry.

Q. Yes.

A. They, of course, have their responsibility.

Q. Oh, quite so.

A. They have final responsibility.

Q. They would have to be the referee. I agree.

A. Not referee at all.

Q. You say they would not?

A. No. They would have to be the decider. They would hear what we have to say and in the final analysis they would say, "This is what we are going to do."

It will be for the Board to determine what

the Board will do in the future.

and I am sure they will be able to

Board would be well to be in a position

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But I am sure they will be able to

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Q. That is what I mean by referee.

A. Oh, I see.

THE CHAIRMAN: Do you think there is much being achieved by this kind of examination? That is, you all wish to leave it to the Board. The Board, of course, will hear you. They always do.

MR. EVANS: It was only an opening question, my lord. I was not really putting any store by it.

Q. I wanted to get this far with you, Mr. Cooper, that uniform accounting would not, of itself, produce comparability of results?

A. I do not think so, no. For example, what I had in mind was this. By merely having uniformity of accounting, you could not overlook the possibility that some such things as pension funds being different in basis and having different benefits and costs, although accounted for on the same basis, would produce results in the end, in the Company's statements, which would have to be taken into account in making comparisons.

A. I am sorry you picked the subject of pensions as an illustration.

Q. I just picked it out of the air.

A. I agree completely with the idea that even under uniform accounting classification, you would not have complete comparability except where the activities are identical.

Q. Yes.

A. But when you speak of pensions, under the Canadian National pension plans we charge our operating expenses with the capital cost of the annuity or pension which will be paid to the employees after their retirement.

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That means that we are not accruing anything for pension costs of employees while they are in service.

Q. Yes.

A. I do not know whether you are or not; but I could quite conceive that the Board would rule that you shall do it one way or the other, and you cannot do it both ways.

Q. Yes.

A. There would not be comparability if one Company is accounting for pensions after termination of service and the other one is charging out to expenses not only pensions for past service but accruing pensions of employees in service.

Q. I quite follow that statement. What I was really going to was rather narrower ground. To get comparability of results with regard to pensions, you would not only have to have the same kind of plan but the same kind of accounting; and the accounting in itself would not make different plans comparable and the results flowing from them comparable. It was the principle that I was getting at. You see, Mr. Cooper, there have been a great many people here who think the magic wand of uniform accounting makes for complete comparability of accounts. I was merely pointing out the principle. There is no dispute between you and me on the subject.

A. No.

Q. I think you will agree that perfect comparability can never be made, as you say, even under uniform accounting unless you have exactly the same kind of expenses, the same pension plans and so on. Have I correctly stated your view?



A. If the Commission were interested in my expounding a little bit on what I believe would be some of the benefits which would emerge from a regulatory authority, I should be glad to do so. But we have thought, my lord, that in this matter of uniform accounting you would be concerned only with the broad principle and that the details would be left to the Board. This is a matter of detail. So far as the routine accounting work is concerned, I personally feel that there is absolutely no difficulty on the part of either company in doing its accounting. There are problems that crop up from time to time as to which we would wish to have discussions with the regulatory authority, and if necessary we would ask for a ruling. At the present time, for example, if I need a ruling of that sort, I look to Washington whereas I should be looking to Ottawa. But I do not wish to go into any matters of detail unless it is really of importance.

THE CHAIRMAN: I do not know whether Mr. Evans is trying to show that there are so many details of such an important character that the principle of uniformity should be abandoned.

MR. EVANS: Oh, no, sir.

THE CHAIRMAN: If that is the case, it then comes down to a matter of procedure before the Board.

MR. EVANS: May I put before the Commission what my position is.

THE CHAIRMAN: Yes. You seem to say that uniformity may go so far as to disturb your respective Companies' systems.

MR. EVANS: No.

THE CHAIRMAN: Are you afraid of that?





MR. EVANS: No. I did not suggest that.

THE CHAIRMAN: You were questioning Mr. Cooper apparently with that fear in your mind, it seemed to me.

MR. EVANS: No, sir. May I put it this way, sir. I think our hearings here have assumed that uniform accounting in itself can make for perfect comparability of results. We are for uniform accounting, but I suggest to the Commission that it is putting <sup>it</sup> on too high ground to think that uniformity of accounting can produce that result. My point in my question to Mr. Cooper about pensions did not involve a dispute between us at all. It was merely to point to the principle that unless you had exactly the same pension funds and exactly the same benefits, uniform accounting does not produce comparability of results as to pension funds.

THE CHAIRMAN: Just by your saying that, does it not prove that it is not possible?

MR. EVANS: I am finished with the point. I was just asking Mr. Cooper his view as an accountant, and I thought it would be a valuable one.

THE CHAIRMAN: I understand.

MR. EVANS: Q. I have just one other question on that subject of uniform accounting. I think I understood your evidence in connection with a question put to you by Mr. Covert as to the treatment of the income received on the securities of the Toronto Terminals Railway Company owned by the Canadian National, <sup>and</sup> / I want you to correct me if I have interpreted you incorrectly. I understood you to say that, as a railway accountant, you felt that the income received by the Canadian National from the Terminals Company on the securities of the Terminals Company should go



into Rail Income.

A. Assuming that the income statement of the Company is to be divided as between rail operations and non-rail operations, yes. I said that in my opinion the interest on the bonds of the Toronto Terminals Railway, held by the Canadian National, should go into Rail Income.

Q. Yes, I thought I understood you correctly. There are some concessions and so on, but the income from those securities is derived principally from payments made by the railway companies who use the station or the terminal?

A. Yes.

Q. And those payments are charged in the expenses of the railway companies?

A. Yes.

Q. May I therefore suggest this to you. If you charge your expenses with the payments which give rise to the income, and you take the income in as revenue of the railway company, the freight shipper, unless you are on a return on investment basis, gets the use of the terminal for nothing?

A. I do not agree with that. There is a third factor which you have not mentioned, and that is the interest on the funded debt. May I put it this way. The Canadian National has invested in the Toronto Terminals Railway a matter of about \$12,900,000. I forget what the actual figure is, but perhaps for the sake of the discussion we might use a round figure of \$10 million. The Canadian National has borrowed \$10 million, and we are paying interest on that \$10 million. That interest is in our fixed charges. Let us say that it is being paid at the rate of 3%. We therefore have in our fixed charges, which in turn are rail, \$300,000 of a charge with respect to this





particular investment. We have in our operating expenses, or what we term "Joint Facility Rents", not \$300,000 but \$500,000 because as between the cost of the money we pay and the cost of the money we charge to the Toronto Terminals Railway, there is a differential of 2%.

Q. Yes.

A. But in our rail expenses we have \$500,000 and in our rail fixed charges we have \$300,000.

Q. Yes.

A. So we have a total charge against rail of \$800,000.

Q. Yes.

A. If I do not credit to rail the \$500,000 of income from the Toronto Terminal bonds, the situation would be that the rail side of our enterprise is charged with \$800,000 and the non-rail side is credited with \$500,000.

Q. Yes, I can see your point. May I suggest this to you. If you had not borrowed any money on which you paid a fixed charge to the Canadian National who put up that capital, then the position might be different.

A. Well, it would be different, of course. But again assuming - well, I do not know that I should make the assumption. We do not get \$10 million out of the air.

Q. No; I know that.

A. And there is a charge for \$10 million.

Q. Quite so.

A. There is a charge somewhere on the funds needed to make the investment from which this interest income comes to us.

Q. I think you and I are in agreement at this point. It really gets down to this, Mr. Cooper, as we suggest: if you take the income on these securities into rail income



you should also take in the investment in rail investment?

A. Yes.

Q. That clears up my point. To come now to the question of depreciation - and I am going to do this as quickly as I can - are you familiar with the definition of depreciation which appears at page 117 of our Brief and with which everyone here seems to agree, so far as the provincial accountants are concerned?

THE CHAIRMAN: Are you talking about your own Brief?

MR. EVANS: Yes.

THE CHAIRMAN: Part I?

MR. EVANS: Yes, Part I of our Brief.

THE CHAIRMAN: What page?

MR. EVANS: Page 117.

Q. You are perhaps familiar with it, Mr. Cooper. I will show it to you.

A. Is this it?

Q. Yes, this is it.

A. On reading it for the first time, Mr. Evans, I would say that it is a fairly correct definition of depreciation as I understand it. There are, I would say, hundreds of definitions of what depreciation accounting is.

Q. Yes?

A. They vary in language, but probably they all amount to pretty much the same thing; and I think, with that generality, I would be inclined to agree with it.

Q. I think you would agree that the source is authoritative. The definition emanates from the Committee on Terminology of the American Institute of Accountants.



A. We do not ordinarily go to outside accountants. We more or less would go to the Interstate Commerce Commission.

Q. Yes.

A. But in turn, we have a definition of depreciation. I think it is in our Annual Report for 1943. I do not know whether you have it.

Q. I have not. I just wanted to suggest this to you. Strangely enough, we found our expert accountants and the provincial accountants in agreement on this particular definition; and I thought perhaps you had considered it because it has been in the forefront of the rate cases. After a slow start, we have obtained general agreement from the provincial accountants on that definition.

A. If you have obtained general agreement, that would be very persuasive to me in making me think that probably you had the correct definition.

Q. With that as a background, would you agree or disagree that the user method of depreciation is a systematic and rational method which complies with that definition?

A. No.

Q. You do not?

A. No.

Q. You say that it is not systematic and that it is not rational?

A. Yes.

Q. Why do you say it is not systematic?

A. I have explained that to the Commission, Mr. Evans. I read a statement here on my views on the user method of depreciation versus the straight line method; and unless we are going into an interminable discussion of the user versus the straight line method, I would just refer you





back, for my views, to the evidence which I gave two days ago.

Q. I suggest to you that you are the only accounting expert who has not agreed that at least the user method is systematic and rational.

A. When you say "the only accountant" just what do you mean?

Q. There have been a great many accounting experts who have appeared before this Commission and before the Board, and I have never heard any of them suggest that the user method is not a systematic and rational one. Some of them have disagreed with the user method, but none of them has suggested that it is not systematic and rational. In view of that fact, would you think your answer was a little bit categorical?

A. I do not change my answer at all, Mr. Evans.



Q. Then do you agree that depreciation (and I am not going into the details of this) do you agree that depreciation is a process of allocation and not of valuation?

A. Allocation of what?

Q. Of allocation, not of valuation. That is what the definition says: "It is a process of allocation not valuation".

A. Allocation of what?

Q. Well, would you like to look at the definition again?

A. Well, it just says a process of allocation, and I say, allocation of what?

Q. Well, the definition is all I have to go by. I am sure you understand better than I do.

A. I suppose it means allocation of service life value.

Q. I suggest to you that it means allocating to the various years some portion of the depreciation charge.

A. No, I think it means the allocation to fiscal periods of the service life of depreciable property.

Q. Yes, now, could we agree---

A. Of the service value I should have said. I don't know whether I said value or life.

Q. Well, so that it is a process of allocation, not valuation. Let me just read the balance of it.

"The depreciation for the year is the portion of the total charge under such a system that is allocated to that year."

A. Yes.

Q. Now, then:

"Although the allocation may properly take into account occurrences during the year, it is not intended to be a measurement of the





effect of all such occurrences."

A. I think that is true.

Q. Now, may I suggest this to you. Isn't this involved, that any depreciation method does not attempt to make year by year determinations of the physical depreciation taking place in that year.

A. Respecting railroads?

Q. I am speaking of the generality of depreciation.

A. I would not say that that is true with respect to all methods of depreciation accounting.

Q. Isn't that what this definition says?

A. I assume that that was as related to railroads rather than to all kinds of industry.

Q. Well, this is a definition from the American Institute of Accountants, drawn up by its committee on terminology, to be found in Accounting and Research Bulletin No. 20, and amended only as to the matter of salvage in Accounting and Research Bulletin No. 22. You may be right, but I had no idea that the American Institute of Accountants was speaking only with regard to railways.

A. Well, if you relate your question to railroad accounting (and after all that is what is involved here) my answer will be "yes".

Q. Yes, so that you answer "yes" to my question to you that the year by year allocations of depreciation in the accounts need not measure the physical deterioration taking place in that year.

A. That is true.

Q. As long as over the period of the service life the total result is to recover the depreciable value.

A. Yes.

Q. Then at page 18730 you rather suggested as your



first objection to the user method that it failed to measure the physical depreciation taking place year by year. This is your first objection:

"First, wear and tear are not the only factors in depreciation. The use basis seems to attach little importance to the action of the elements and decay in causing exhaustion of service life; obsolescence and inadequacy also are important factors. Our engineers tell me that in their opinion rolling stock is kept in better condition when it is in use and that deterioration takes place rapidly when equipment is held out of service for long periods of time.

Use, in excess of normal or average, entails maintenance and repair expense in excess of normal or average. By the periodic shopping of equipment the greater part of deterioration as the result of use is restored."

Now, would you like me to read the rest of that? I want to come to the point as quickly as I can. I gathered from that answer that you felt that your first objection to the user basis was its failure to measure physical depreciation year by year.

A. No.

Q. That is not the basis of that?

A. No.

Q. Then if that is not, I pass on. Now then, as far as road property is concerned the Canadian National is at present on what they call a retirement method?

A. So far as other than track elements are concerned.

Q. So far as other than track elements are concerned,



which are on a renewal method?

A. Correct.

Q. And I think that you quite fairly said that in your view those items of road property should no longer remain on the retirement method.

A. I suggested for the consideration of the Board when the question comes before them, that they should consider the adoption of the replacement method

Q. Yes?

A. In substitution of the retirement method.

Q. Yes?

A. So that so far as roadway property is concerned not only would the track be on a replacement basis, but all roadway property would be on that one same basis.

Q. I assume that you made that statement because you agreed that that was pretty generally a condemnation of the retirement basis of accounting.

. Yes

Q. Now, then, would it be a fair suggestion to make to you that whether you are on retirement or renewal accounting, unless you have coupled with that a reserve, there would in many years, we will say, of depression, such as we went through in the 1930's or of wartime when you had not the materials and labour - a tendency after those properties have come to an end to find a bunching of retirements or replacements?

A. Conversely, of course, you would have to take the situation at the end of a period of prosperity, wouldn't you?

Q. Well, I am not sure that I have in mind what you have, but I want to make my question quite clear so that there is no misunderstanding. Let us take a period beginning about 1930. We had a period of depression when revenues





were such that expenses had to be maintained at the lowest level. For a privately owned company any charge to expenses for retirement or replacements of assets, retired under those methods, would either have produced an operating deficit or would have resulted in postponement of those retirements.

A. The same thing of course applied to rolling stock.

Q. Oh, quite.

A. I think it is inherent in depreciation accounting that there is a variation, as you yourself brought out in the preliminary questioning, there is a variation between the physical depreciation in a fiscal period and the charge which is entered into the accounts, and that obtains whether you are on the retirement basis or on the depreciation basis. To some extent it is also true with respect to the replacement basis, but I do submit that the replacement basis measures the actual position better than either of the other two.

Q. Well, if I may just pursue that for one moment. I really do want to finish. My point is this, that in those periods of which I have spoken, the depression where you don't want to make charges to expenses followed by a war in which even if you had the money you could not, the tendency in the post-war years would have been that you would have then been called upon to make a very large number of replacements with very substantial charges in a given year or series of years, to expenses

A. Uhm.

Q. May I suggest to you that one of the great advantages is that those retirements can be made in the ordinary course and charged to the reserve, and that you do not get



those wide fluctuations in charges to expenses that are due to a bunching of retirements and replacements. I think that is fair.

A. It perhaps is one of the arguments in favor of depreciation accounting. I think ( and I have not taken any other position) that there is a great deal to be said for depreciation accounting as applied to roadway property. My conviction is that there are many arguments to the contrary, and that on balance the arguments against outweigh the arguments in favour. Now, if you put to me one question---

THE CHAIRMAN: Did you say the arguments against outweigh the arguments in favour?

A. Yes sir. If you put <sup>to</sup> me just the questions where my answer necessarily must be in the affirmative in the favourable ones and we stop there, then the result of your cross examination is to make my evidence appear to be favourable to your contention, and I don't just think that that is going to leave the situation in a satisfactory position.

Q. Well, I have no desire to prevent you expressing qualifications in your mind if you feel that my questions---

A. Then may I explain my position on this thing, Mr. Evans, and my lord. Again I say that we have assumed that this matter of depreciation accounting will be dealt with by the Board on the question of broad policy. I take it you will make a recommendation <sup>that the board</sup> /shall, or shall not prescribe uniform accounting, and that you will recommend that the Board shall or shall not prescribe the classes of property which are to be made subject to depreciation accounting. If the Commission is going to go beyond that, if it is going to decide this question of user and straight line method,





then I think we would have to go into it at great length indeed. The subject can be discussed for days.

Proceeding on the assumption that your consideration of it is on the higher level and not in matters of detail, I restricted my evidence to a brief summarization of my views.

Q. Yes. Sorry - have you finished?

A. Yes.

Q. I was just going to say to you that I would not have thought that the matter was something that was going to be decided by this Commission, but since your views were so strongly expressed, I felt obliged perhaps to test them. In doing so I want to be perfectly fair and I recognise that there can be differences of view, but I am going to suggest this to you, that the preponderance of opinion is definitely in favour in this country and the United States of depreciation accounting rather than renewal accounting.

MR O'DONNELL: Won't the Commission have to determine that upon what has been put before it?

MR EVANS: Q. Wouldn't you say that was a fair statement?

A. Are you speaking of the railroad industry?

Q. I am speaking of accounting opinion generally as to depreciation and preference for renewal or replacement.

A. I think that is too broad a question to put to me. I don't know what is in the minds of all accountants of all kinds of industries throughout Canada and the United States.

Q. Well, there has been a very definite trend towards depreciation accounting in recent years.

A. I don't know as to that.



Q. There has been at least in the railroad industry in the United States.

A. Yes, and that in my opinion is all tied in with the income tax problems which arose as a result of the war.

Q. Well, would you think it would be justifiable <sup>that</sup> there should be some recognition of the income tax problem?

A. Yes, and I have suggested for consideration, Mr. Evans, and I wish you would keep an open mind on it, a method which would in my opinion improve your income tax position vis-a-vis the depreciation method.

Q. Have you made that suggestion here?

A. Yes sir.

Q. Would you mind repeating it?

A. I have suggested that there shall be considered by the Board when this matter is before it, the adoption of replacement accounting with respect to roadway property.

Q. Yes?

A. And in my <sup>from</sup> opinion/the taxpayer's point of view there would be an advantage to him if the requirement method were adopted instead of depreciation accounting, either on a straight line basis or on a user basis.

Q. Yes, well, the only question really ~~that~~ arises between us on that is the means by which you can avoid this degree of bunching of your replacements and retirements.

A. You see, you are getting back into detail.

Q. No, this is not detail; it is a matter of principle. Now then, I don't want to pursue you too closely on that but one question on the British Railways. The British Railways before nationalization were always on a renewal basis.



A. I don't know, Mr. Evans, and my information with respect to the British Railways is as follows. I received last year a report issued by the British Transport Commission of the affairs under its jurisdiction for the year 1948. It is quite a document, and I find it most interesting. I was particularly interested to note---

THE CHAIRMAN: Pardon me, is that its first year?

A. Yes, my lord.

MR EVANS: I think I have seen it, but I have not read it all, I must confess.

THE WITNESS: Well, as a report of a railway system I would say that there is nothing in the world to equal it, and that is a pretty broad statement. I was interested in reading it in many of its phases, but I was interested when I came to see what they had done with respect to the matter which we are now discussing. They pointed out that when these tremendously big activities were placed under their jurisdiction, they had all the railways much of the highway transport, the London Transport system, the canals, the docks, the hotels - probably the biggest enterprise (we don't know what is in Russia, but certainly outside of Russia) the biggest enterprise in the world.

They had to decide at the beginning what policies they would adopt as to organization, administration, operation, accounting and so on; and in the accounting section they had to deal with this question of accounting for wear and tear, obsolescence, inadequacy and all the other factors we have in mind when we speak of depreciation. It was very interesting to me to find that with respect to rolling stock they decided that they would adopt depreciation





accounting and it should be computed on the straight line method. I said to myself that at any rate the Canadian Railways are on all fours with the British, and I knew we were on all fours with the United States railways. So I felt that we had good companions walking alongside of us.

Now, when we came to investigate what they had to say with respect to depreciation on roadway property, they said "We will adopt the replacement method". They turned their backs on depreciation accounting for roadway property. So I gave that matter a great deal of consideration, and I finally came to this conclusion, that instead of coming <sup>and saying</sup> before this Commission/that the Canadian National has got a perfect plan with respect to accounting for roadway property, that maybe these people have got something better, and I think that what they have should be considered.

I am saying to my friend, Mr. Evans, that if he would look at that with an open mind and having in mind his tax problem, he might find there something that would solve his problem better than the one he has got.

MR EVANS: Q. Well, you recall what Mr. May said in his evidence before the Board about that. He thought that replacement accounting through a reserve might be superior to depreciation accounting as it is now practised.

A. Well, you may have a great deal of respect for Mr. May, but if you want to stack Mr. May up against the British Transport Commission, that is all right with me.

Q. You disagree with Mr. May at all events?

A. I really don't know Mr. May, and I don't know what he said. I understand he is retired, Am I right?

Q. I assume he is. Does that make him any less an



authority on the subject?

A. Yes, I think it does.

Q. You do?

A. I do, I think that when I retire my mental processes will not be quite as acute as when they are working full time.

Q. I suppose that would apply the day--

MR O'DONNELL: There would be a write-off at that time?

THE WITNESS: Yes.

MR EVANS: Q? I suppose that would be an instantaneous transformation the day you retire?

A. I wouldn't say instantaneous; it could be gradual.

(Page 19100 follows)





---Upon resuming:

MR EVANS: Q. I am sure you are going to be as glad as I am, Mr. Cooper, that I have just about one more question to ask you.

A. I will try to say Yes.

Q. The one question I had left to ask you was, did you or did you not know that the British railways were on renewal accounting or, as we have called it, replacement accounting, for both roads and rolling stock prior to the recent adoption of depreciation accounting for rolling stock?

A. It is my understanding that they had differing methods, Mr. Evans.

Q. Was not, in your view or your recollection, the practice almost entirely renewal accounting for both, prior to this recent adoption of depreciation accounting for rolling stock?

A. I once worked with a British railway, you know, and they go, or they did go, more in the way of reserve accounting.

Q. Renewal reserve accounting?

A. Yes, it would be renewal reserve accounting, meaning by that that they would say, we can afford to put into a reserve 200,000 pounds for the renewal of the maintenance of way, depending on the prosperity of the enterprise in that year. It might be 100,000 pounds or 250,000 pounds; it was according to their degree of prosperity. Now, it was out of that reserve that they paid for their major renewals.

Q. And the purpose, may I suggest to you, of the reserve would be to get away from this difficulty about bunching in periods when their earnings might not permit them to make the necessary replacements?

A. To some extent, yes.



Q. Thank you, Mr. Cooper. I am sorry to have kept you so long.

MR O'DONNELL: I have no questions, my lord.

COMMISSIONER INNIS: Q. Mr. Cooper, I am not sure that I should ask you this question, but on the insert which was put in Mr. Gordon's presentation, is it to be inferred that the Canadian National Railways has been persuaded to build branch lines unnecessarily?

A. I think in the period around 1926-27-28-29 I would say the railway was persuaded to build branch lines, yes.

Q. And this is a fear which persists down to the present time, that is to say, down to the time that the President inserts this in the statement?

A. I do not think it is immediate; I do not think it is acute today.

Q. Well, he must have had some feeling that it was acute, or he would not have put it in?

A. Yes. Well, of course, this submission has involved a review of the affairs of the National System for a period of time, that is, the last thirty years, and these facts have come up to the surface, it has been noticed that these things were done, and I think the President has in mind that we must try to prevent a recurrence of things of this kind.

Q. Does the Act make any statement on that question?

MR O'DONNELL: Not on the division as to the capital.

COMMISSIONER INNIS: Q. That is to say, could Parliament or the Government under the Act compel the Canadian National Railways to build branch lines?

A. I think as the sole owner they could, yes.

MR O'DONNELL: I know of nothing under the Act that



says that, but if the Government built a line it could be entrusted under the provisions of one of these statutes.

THE CHAIRMAN: Mr. O'Donnell, railway extension may be required by the growth of the country and so on. Does this mean that in such a case the Canadian National Railways would be left free to do its own extension work, without any suggestion being made to it either by the owners, the Government of Canada, or anybody else?

MR O'DONNELL: Well, I think all Mr. Gordon is trying to say there is that he would like to judge on its merits the question of any future development lines, and that he would hope that not more than 60 per cent of it would be financed by interest-bearing securities. When he said that he said, "I would not want it to be thought that when I said that, I would build any and all development lines which may be suggested to me. I would like to review on its merits each case as it arose."

THE CHAIRMAN: Yes, I know. We must read that as a part of this paragraph 3, I suppose. Paragraph 3 talks about the financing of future development lines, that they should be financed to the extent of not more than 60 per cent by interest-bearing securities, and the balance supplied by the Government against the issue by Canadian National of equity stock. Then he says, "Now then, if you accede to that, do not misunderstand us. We do not intend to say by that that we are volunteering to build anything you may suggest to us."

MR O'DONNELL: That is right.

THE CHAIRMAN: "We want to be free to say that we will build or will not build." Isn't that what he says?

MR O'DONNELL: Well, I think he is merely saying, "I want to act as a prudent manager would, and to review the merits of any particular case."





THE CHAIRMAN: Is that a departure from anything that has been going on up to now? Does it apply to all future lines?

MR O'DONNELL: Well, I don't know that there has been any arrangement in the past whereby capital was provided on the lines mentioned by Mr. Gordon in that paragraph -- that is, 60 per cent by interest-bearing securities and the balance on an equity basis.

THE CHAIRMAN: You see, there is a matter of national policy there. Here is a railway which belongs to the Government, and your company operates it. You yourselves may build, according to this section I have just been looking at, with the approval of the Government. Mr. Cooper tells us that in some years twenty years ago, and so on, you did build at the request of the Government. What is to be the policy for the future? I do not suppose Mr. Cooper is the one to tell us.

MR O'DONNELL: I do not know whether it was expressly at the request of the Government those years back.

THE CHAIRMAN: I understood that to be it.

MR O'DONNELL: The initiation of the project under the Act has to emanate from the railway itself, and the approval had to be obtained and so on.

THE CHAIRMAN: That is so, but I thought Mr. Cooper said to Dr. Innis that twenty years or so ago, in 1928 and 1929, some lines had been built by the railway at the suggestion or proposal of the Government.

Q. Isn't that what you said, Mr. Cooper?

A. Yes, sir.

MR O'DONNELL: That may be so; I don't know.

THE CHAIRMAN: I am not saying there is anything wrong in that or anything right in that. After all, the Government are the owners.



MR O'DONNELL: They own it.

THE CHAIRMAN: But the question is, from now on does this rider to this clause 3 mean to extend so far as to say that the Canadian National Railways want to be put into the position that henceforth they are not to be asked -- suggested is the word used there -- to build any branch line unless they themselves make up their minds that they want this branch line and proceed to get the proper authority to build it?

MR O'DONNELL: I think what Mr. Gordon is saying is that he wants to have the right to exercise his judgment, or at least to put forward his views, and that when he said that future development lines should be financed to the extent of not more than 60 per cent by interest-bearing securities and the balance to be supplied by the Government, it would not necessarily follow that any suggested future development lines should automatically be built on that basis. He would like to have the right to put forward his views as to the advisability of building. I think that is it.

COMMISSIONER INNIS: The inference is that it should be free, and that presumably means that it is not free at the moment.

MR O'DONNELL: Yes, should be free to consider each individual case.

THE CHAIRMAN: "The Canadian National Railways should be free to consider on its own merits each individual case of developmental line which might be proposed in the future."

That might mean that hitherto they have not been free; I do not know. But, you see, there is a question here that cannot be ignored; we have had applications here, for instance---





MR O'DONNELL: That is right -- to fill the gap, and others.

THE CHAIRMAN: People have brought maps and said, "Here, there should be a line of railway built from here to there," so we cannot altogether ignore that. Since Mr. Gordon did interject this rider to this subsection 3, we shall have to hear more about it, I think.

MR O'DONNELL: Well, that is understandable.

THE CHAIRMAN: As to what the management of the railway now has in mind as a policy for the future.

MR O'DONNELL: I think Mr. Gordon has in mind there endeavouring to restrict the amount of the fixed charges, and not allowing it to be built up again. If he gets the adjustment he asks for this time, he wants to hold that.

THE CHAIRMAN: There again, perhaps Mr. Fairweather will be found qualified to answer those questions; I do not know.

MR O'DONNELL: Well, we can try with him, my lord.

THE CHAIRMAN: We will leave it to you, Mr. O'Donnell.

MR O'DONNELL: Yes, I will be glad to.

THE CHAIRMAN: Now, does anybody else wish to question Mr. Cooper? (No response).

We thank you very much, Mr. Cooper. You have been very kind to us.

THE WITNESS: Thank you, sir.

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MR O'DONNELL: Then I will call Mr. Fairweather, my lord.

S. W. FAIRWEATHER, Called.

EXAMINED BY MR O'DONNELL:

Q. Mr. S. W. Fairweather, Vice-President of Research and Development -- that is your title, isn't it, Mr. Fairweather?

A. Yes.

MR O'DONNELL: I might say for the information of the Commission that Mr. Fairweather has been engaged in railroading since 1911. He is a graduate of Acadia and McGill Universities in Civil Engineering. He was on the staff of the organization set up by the Government to conduct the Grand Trunk Arbitration, and on the consolidation of the Canadian National in 1923. He was appointed Assistant to the Director, Bureau of Economics, of the Canadian National, which department was subsequently changed to the Department of Research and Development, of which Mr. Fairweather has been Vice-President since 1943.

Q. Mr. Fairweather, you heard the statement made by Mr. Gordon, President of the Company, and you have also heard the evidence of Mr. Cooper?

A. Yes.

Q. You heard Mr. Cooper explain how on behalf of the company you and he had collaborated in studies of problems such as those with which we are now engaged, and that generally speaking he had provided the factual accounting information, together with his duties as an executive officer of the railway, and that you had testified as to the physical characteristics of the railway, its operations and the economic significance of the facts which were developed?

A. Yes.

Q. Now, before going into the various matters upon



which you might be of assistance to the Commission, I would like to draw your attention to the various items in Mr. Gordon's statement which Mr. Cooper indicated you would explain. Now, Mr. Gordon made reference at page 7 of his statement to the acquisition by the Government of Canada of the Canadian Northern and the Grand Trunk Railway systems when they were unable to carry on as private enterprises, and said that they were taken over in the national interest as going concerns instead of having been put through bankruptcy proceedings. Are you aware of the situation which prevailed at that time concerning these systems, and if so would you please describe it briefly to the Commission?

A. Yes, I am. I think I can speak with a certain amount of knowledge about this matter, because I was one of those who had the responsibility of preparing the case for the Government on the acquisition of the Grand Trunk, and through the Grand Trunk I had knowledge of the Grand Trunk Pacific, and I was naturally interested in the Canadian Northern as being a part of the general picture at the time.

No one who had access to the facts could come to any other conclusion except that these railways were in a hopeless condition. Their credit was exhausted, they had only been kept in operation by means of Government loans, and the general condition of their property was run down. The business outlook was none too good. They had large capital needs, their earnings were insufficient to carry the burden of their existing debt, so that it was hopeless of them to try to finance additions and betterments which were essential to protect their competitive position. They were at the end of their tether, and they were in a state of virtual bankruptcy.





Q. That, generally speaking, relates to the financial aspect chiefly. Would you describe briefly to the Commission, from the physical aspect as distinct from that financial point of view, the condition of the properties of the Canadian Northern and the Grand Trunk Systems when they were taken over by the Canadian National Railways?

A. Yes. I have some personal knowledge of that matter.

Q. Take say the Canadian Northern first.

A. The Canadian Northern, I have some knowledge of that, by reason of the fact that at that time I was on the staff of the Department of Railways and Canals, and had an opportunity of seeing what was going on in the Canadian Northern affairs. I also had an opportunity from time to time to see the condition of the property by travelling over it, with a good deal of discomfort.

There is no doubt that the property of the Canadian Northern at the time it was acquired by the Government was in a run-down condition, although at that time it had not been completed. That seems perhaps to be an odd way of putting it, but the Canadian Northern had spread themselves very widely; they built their railways in the first instance to get there, and they looked to the future to be able to build them up to a standard that would be suitable.

Q. When you say spread themselves, you mean they had extensive mileage?

A. Yes. Now, under conditions like that, it is very easy for a railway to receive very severe damage if it attempts to handle traffic. Ballast is inadequate, the rails are apt to be punished, and all the property suffers, and that was pretty much the condition of the Canadian Northern. I have not any actual estimate of the deferred maintenance that was on the Canadian Northern, but I know it



was undoubtedly very large. It was referred to in the Drayton-Acworth Report as existing, and on the equipment side, where there is some knowledge, there was certainly evidence of very considerable deferred maintenance and a bad condition of equipment.

(Page 19112 follows)





Much of their equipment was second hand and it was not too well maintained. So that the Canadian Northern was, undoubtedly, in a rundown condition.

If any proof were needed of it, one had only to turn to the very large expenditures which had to be made on the property immediately the government took it over. I estimate, roughly, that the deferred maintenance expenditures which were picked up between the time of the acquisition, and the time of consolidation with the Canadian National were, probably, in the order of \$65,000,000.

Now, with regard to the Grand Trunk, I am able to speak from knowledge, because, as part of the acquisition procedure, we instituted a physical examination of the Grand Trunk and the Grand Trunk Pacific.

We sent engineers out over the property, and we examined practically every unit of property.

We reached the general conclusion that the estimate of deferred maintenance which the Grand Trunk officials had admitted to in their prior negotiations with the government was an understatement.

I would put the deferred maintenance certainly at the figure of \$25,000,000. And there was, in addition to that, deferment of capital which had a most adverse effect upon the property as a whole, both with regard to its maintenance and with regard to its traffic obtaining potentialities.

Now, in the case of the Grand Trunk Pacific --

Q. What can you say about the matter of deficiencies of equipment?

A. On the Grand Trunk they had a deficiency of equipment, yes, very much.

Q. Such as shops, machinery, and that kind of thing?

A. Shops, machinery, and that kind of thing. It is

1. The first part of the paper  
discusses the general principles  
of the theory.

2. The second part of the paper  
describes the experimental  
method.

3. The third part of the paper  
presents the results of the  
experiments.

4. The fourth part of the paper  
discusses the theoretical  
aspects of the problem.  
5. The fifth part of the paper  
presents the conclusions of the  
study.

6. The sixth part of the paper  
presents the conclusions of the  
study.

7. The seventh part of the paper  
presents the conclusions of the  
study.

8. The eighth part of the paper  
presents the conclusions of the  
study.

9. The ninth part of the paper  
presents the conclusions of the  
study.

referred to.

THE CHAIRMAN: Q. Is the Grand Trunk one of those which are called the Canadian Government Railways?

A. The Grand Trunk Pacific was a subsidiary of the Grand Trunk Railway.

Q. At that time?

A. At that time.

MR. O'DONNELL: Q. Yes, Mr. Fairweather.

A. The Grand Trunk had a serious condition in their equipment. I believe they had a matter of \$25,000,000 odd which they said was a deficiency of equipment, including a certain amount applicable to shops and engine houses.

Now, with regard to the Grand Trunk Pacific, we also made an inspection of that property, and we found it had come, technically, out of construction in 1916, and we made our examination, I believe, in 1920.

Traffic on the property was very light, and the property was going through that first stage of the renewal cycle which, to the engineer, means that the life had gone out of the first installation of ties. The property, therefore, was in an almost deplorable condition.

Q. Now, without referring to the details <sup>which</sup> are to be found in the Drayton-Acworth report, because the matter is commented upon there by the Commissioners, is it not?

A. Oh yes.

Q. And I might save time by simply saying that any further details concerning it are to be found there.

We received a certain amount of information from Mr. Cooper the other day; and I would respectfully suggest that if the Commission is interested, it may find further information in the Drayton-Acworth Report.

Will you now please turn to page 8 of Mr. Gordon's



statement at the bottom of page 8,, where I want to refer you to that figure of \$100,000,000.

Mr. Cooper has given testimony regarding the figure of \$707,000,000 mentioned by Mr. Gordon near the bottom of page 8; and I understood from him that you, Mr. Fairweather, would explain that which Mr. Gordon said as follows:

"It is a reasonable estimate that of this amount at least \$100,000,000 represented necessary improvements to the property which did not add to the earning power of the System."

What would you say concerning that statement?

A. That \$100,000,000 is an estimate because no one could precisely evaluate what is here being considered.

On the other hand, I do not think anyone could have consideration of the circumstances without realizing that there was a substantial amount of capital.

Q. What kind of improvements were required?

A. They ranged all over the whole field; rails, fastenings, and other track materials; ballast; widening cuts and fills; ditches; replacing trestles; yard tracks; shops; enginehouses; miscellaneous; in fact, every item which affects railway operations.

Q. Was there any accrued depreciation of equipment?

A. No. There was no accrued depreciation of equipment.

I have estimated that of these roadway items, about \$60,000,000 would probably represent the amount of capital expended from 1923 to 1948 of the category that I am describing.

Q. You mean as roadway and structure items?

A. Yes. And in addition to that there was about \$15,000,000 which I would estimate as applicable to additions





and betterments to equipment, and then I would say there was probably a minimum of \$45,000,000 of unaccrued depreciation, representing the deteriorated condition of the equipment.

COMMISSIONER INNIS: Q. Isn't that an incredible statement: that you should put \$100,000,000 into a plant which did not add to the earning power of the system?

A. That, perhaps, does need a little elaboration.

The accounting classification as between capital and operating is a technical classification, and there are certain things concerning which it is debatable whether you can say that they actually add to the earning power.

Let us take, for instance, such an item as the widening of cuts, and fills.

THE CHAIRMAN: Q. What is that?

A. The widening of cuts and fills.

Now, in a sense, one could say: Well, you could get along without widening that cut, or without increasing the width of that fill, and you would not, thereby, deteriorate the earning power of your property.

But, on the other hand, an expenditure of that kind is justifiable in anticipation of increased traffic or of reduced maintenance expenditure, or something of that kind.

COMMISSIONER INNIS: Q. Surely that would mean earning power, would it not?

A. Indirectly, yes. But what I think is the point to be made here is: that when the properties were acquired, let us say, they were presumed to have some earning power, and the condition of the property was not sufficient to support that earning power.

Therefore you had to put this capital in to justify the presumed earning power. In other words, these



properties, when they were taken over, were in this condition: either the capital necessary to support the earning power was not there, or the prior owners, in an attempt to maintain solvency, had diminished the capital assets in their attempt to maintain solvency.

So, as a result, the government, when it acquired the property, was in the position of having to replace or make good this deficiency of capital, and I submit that in that sense this \$100,000,000 did not add to the earning power.

MR. O'DONNELL: Q. You are speaking there not of expansion of facilities, but really of improvement to facilities?

A. I am not even talking of improvement of facilities. I am talking of the expectation that when the properties were taken over there would be a presumption that they were in condition to handle a stated volume of traffic, whereas, in fact, they were not.

Q. But in widening a cut, such as you have spoken of, you say that could be done without any direct additional earning power being derived from it?

A. Immediately, yes.

Q. It is that type of thing you are referring to here?

A. It is that type of thing we refer to here.  
least

The properties were certainly at/\$100,000,000 depreciated from what one might say was a fair condition of a going property. I am talking now of capital, not of deferred maintenance.

Q. You mentioned the roadway structure, and the figure of \$60,000,000?

A. I mentioned a roadway item of \$60,000,000. And I mentioned additions and betterments to equipment in the



amount of \$15,000,000; and I mentioned \$45,000,000 as depreciation.

Now, if you add those items up, you get \$120,000,000 and I think that would indicate that the estimate of \$100,000,000 is a reasonable one.

Q. And what would you say as to the present situation? Is the system suffering from any disability resulting from that situation which you describe, even today?

A. Oh yes. I would say: Yes!

Q. Why?

A. I think that in many parts of the Canadian National System we are still faced with what one might call an incomplete situation.

We have, I believe, over 1,200 miles of fifty-six pound rail on our lighter traffic lines, and that is a distinct disability and something which we shall have to attend to as time goes on.

In addition to that, we have, I believe, about seventy miles of wooden trestles which will have to be taken care of.

And one situation which is very forcibly to the front in these days is that the lines of railway through the mountains of Alberta and British Columbia are still far from being stabilized.

Q. Will you now turn to the next page of Mr. Gordon's statement, page 9, concerning the matter of the cost of co-ordination of these previously competing systems which were taken over by the Canadian National. Mr. Gordon there states:

"Co-ordination, it is estimated, has required the expenditure of \$40,000,000 for main-line connections, belt lines and terminal rearrangements, notwithstanding





which, the property falls considerably short of having a proper location of main lines in relation to branch lines and of terminals in relation to its traffic pattern which would have been secured had the property been designed and constructed as an entity."

What information can you give the Commission as to the expenditure of \$40,000,000 there referred to for the purpose of co-ordinating these various railways as such?

A. Well, it is obvious that one of the first subjects for consideration by the new management was to co-ordinate these previously competing systems, and that was a chore of no mean proportions.

The estimate of \$40,000,000 relates to that portion of the chore which was performed from 1923 to date.

Some co-ordination had taken place prior to 1923 between the Canadian Northern and the Grand Trunk Pacific, but that is not dealt with in this \$40,000,000.

This estimate would cover such items as the connection that was made between the Canadian Northern and the National Transcontinental, between Nakina and Longlac; and another similar connection --

Q. That, incidentally, was referred to in the Drayton-Acworth report?

A. That was recommended in the Drayton-Acworth report as another obvious co-ordination which had the effect of shortening the main line mileage between Montreal and Toronto, on the one hand, and Winnipeg and points west on the other.

Another similar item was the connection between the Canadian Northern Quebec and The National Trancontinental at a place called Donnacona.

Another one was a cut-off near Montreal called



Fresniere cut-off.

Then there were terminal rearrangements to be made of , which the principal one was the Montreal terminal; but there was also important expenditure at Edmonton and Saskatoon. And then there were miscellaneous items, which when you add them all up amounted to \$40,000,000,

Q. That is the estimate of \$40,000,000. And was there not a belt-line at Montreal in connection with it? Could you explain about that?

A. Oh yes. One of the big items is the situation in Montreal.

You had the Canadian Northern Railway with its lines lying to the north and east of the city.

Then you had the Grand Trunk lines lying to the south and west of the city.

I might mention that, until we did co-ordinate those facilities, if we wished to get from one side of Montreal to another, a distance of only 8.5 miles, and do it on our own railway, we had to travel 113 miles.

So the belt-line was constructed, connecting the eastern facilities with the western facilities, and it has been of great help.

I might say that before we constructed that belt-line, in the interests of national economy we made use of a national harbour belt-line, as long as they were able to accommodate us.

Q. You mean the Harbour Railway?

A. I mean the Harbour Railway. But they told us that traffic was getting to such a volume that they did not know how much longer they could accommodate us, and we told them that we would build our own belt-line, and we did.

Q. So these various items you mention add up to that



\$40,000,000?

A. They all add up to \$40,000,000. Actually, I added them up and it made \$40,300,000. But I rounded it out to \$40,000,000.

Q. Are there any further expenditures of this kind to be made?

A. Yes, I would say that there are.

We find ourselves in this position: that in the city of Edmonton we still have to maintain two terminals.

We find ourselves in Winnipeg with a non-consolidated position with regard to terminals. We have several yards in Winnipeg.

We have gradually dealt with the situation in Montreal at the present level of traffic. But if traffic increases, we would have to do something more there. But I do not think that could be called a co-ordination item.

We have a similar situation of lack of co-ordination at Quebec, where you have the Canadian Northern terminal facilities and the Grand Trunk, and the Intercolonial facilities in different locations. So this co-ordination action is not complete.

It has been handled by the management as prudently and as carefully as they knew how, with the object of minimizing costs and of maximizing the benefits. But it is a program which will have to continue.

Q. Can you say anything as to Mr. Gordon's statement that we have been discussing that:

"-- notwithstanding which, the property falls considerably short of having a proper location of main lines in relation to branch lines and of terminals in respect to its traffic pattern which would have been secured had the property been designed and constructed as an entity."





A. I think that could be best illustrated by submitting a scale map which I have had prepared.

Q. Mr. Evans has just suggested to me that I have omitted to mention the best part of your qualifications, namely, that you previously worked for the Canadian Pacific Railways. I am glad to do so now.

Q. I got my early experience in the Canadian Pacific, and very good experience it was, indeed.

THE CHAIRMAN: So we shall have no cross-examination of him?

MR. EVANS: I would hope that your lordship would not make that a condition.

MR. O'DONNELL: We might produce that map now as Exhibit No. 258. It is a scale map entitled: "Map of Canadian National Railways" showing present main lines, duplicate main lines, and branch lines in black, green, and red, respectively.

EXHIBIT 258: Filed by Mr. O'Donnell  
Map of Canadian National Railways  
showing present main lines,  
duplicate main lines, and branch  
lines in black, green, and red  
respectively.

THE WITNESS: On this map, exhibit 258, I have had shown in colours the present main line of the Canadian National; the duplicate main lines which were built by predecessor companies, but which, under Canadian National management, have been relegated to secondary status; and the lines which were built by someone as branch lines.

THE CHAIRMAN: Excuse me now just for a moment. Will this map afford an answer to the question I asked you yesterday, Mr. O'Donnell, about section 12?

MR. O'DONNELL: As to the --?

THE THAIRMAN: Section 12 divides these lines into three. First, the lines of the company; first it says the company may, in respect of the operation of those lines of



railway, or the lines of railway of the Canadian Northern system, or, again, the Canadian Government Railways. You see, it seems to divide your lines into those three classes; and the first class would appear to be the lines which belonged to you as a company.

MR. O'DONNELL: No. This map does not show it that way. This is meant to deal with the present main lines, the duplicate main lines, and the branch lines, to show that when we have got all these put together we still have not got a co-ordinated system.

Mr. Fairweather will explain that if we had built the individual road as an entity, it would have been built considerably different from what has been done, and the map points that up.

THE WITNESS: Yes.

THE CHAIRMAN: I thought that perhaps using these colours, you had used them in such a way as to answer my question.

MR. O'DONNELL: I shall keep your question in mind. That might be the best way to show your lordship what the situation is. We might have another map made, with colours put on it showing the different lines which are comprised in the system: showing the Grand Trunk and the Canadian Northern, and so on. We will be glad to get a statement which will describe what our own lines are, so-called, and what others have been entrusted to us.

THE CHAIRMAN: Your own lines would be, as it were, a core?

MR. O'DONNELL: Yes. I think that might be called the Grand Trunk itself.

THE WITNESS: Actually, the Canadian National Railways are comprised of the lines of the former Grand Trunk Railway Company of Canada, with such additions thereto as



have been built under the authority of the Canadian National Railways.

COMMISSIONER ANGUS: Q. Including the Grand Trunk Pacific?

A. I do not think it does. The Grand Trunk Railway Company of Canada controls the Grand Trunk Pacific by stock ownership.

THE CHAIRMAN: Q. This expression then "company's owned lines" would mean the Grand Trunk?

A. It means the Canadian National Railways which is the successor, by amalgamation, of the Grand Trunk Railway Company.

MR. O'DONNELL: Q. It is quite a complicated set-up. I am having a statement prepared now. There are six or seven Orders in Council which tie in with the statute, and it is a bit confusing.

In the 30% case I remember having to do something similar when Colonel Ralston asked us to prepare a statement. We did so, but I do not think it was filed. We just gave it to him.

But we shall prepare a statement which will describe the system just as clearly as we can.

COMMISSIONER INNIS: Q. What about the line from Winnipeg to Edmonton?

A. The line from Winnipeg to Edmonton is the Grand Trunk Pacific main line.

Q. And what about the Canadian Northern main line?

A. The Canadian Northern main line runs between the same points. Anyone looking at that map will see the natural disposition of the lines. Certainly they feed into the black lines.





There are comparatively few points of connection between the main lines and the branch line system, and that is what I referred to.

THE CHAIRMAN: We shall adjourn now until this afternoon.

At 1 p.m. the Commission adjourned until 2.45 p.m. today.

. . . . .



Ottawa, Ontario,  
Friday, March 24, 1950.

AFTERNOON SESSION

S. W. FAIRWEATHER, Recalled.

MR O'DONNELL: May it please the Commission:

I think we were just at the production of this map which is Exhibit 258, and that Mr. Fairweather was to explain it.

EXAMINATION CONT'D BY MR O'DONNELL:

Q. It indicates, I understand, that the property of the Canadian National falls short of having proper location of main lines and of terminals which would have been secured had the property been designed and constructed as an entity, and you were going on to explain the map from that point of view. Would you proceed, please, Mr. Fairweather?

A. Well, to me it seems obvious from a glance at this map that the Canadian National System was not built as an entity. On it you will see in black the lines which have been chosen as the composite main line. You will see in green lines which now exist as secondary lines but which were built originally as main line, and in red you will see the branch lines. Now, if you look at Western Canada you will see that the chosen main line is the black line from Edmonton through Saskatoon to Winnipeg, and if you will look at the disposition of the red lines in relation to that black line you will see quite clearly that the general layout of the system would have been quite different had it been built as a unit than as it actually is.

A somewhat similar situation is found in Eastern Canada, where again it is clear in the Ontario Peninsula that the disposition of branch lines to the main line is



not the ideal. I do not think it is necessary to elaborate the matter further. To me it is a very clear case of a lack of unity in design.

Q. With respect to Western Canada, what different disposition would you suggest would have been made had the system been built as an entity, for example?

A. Well, it becomes a bit hypothetical, what you would have done had you had an entity from the beginning, but it is clear to me that much of one or the other of those duplicating main lines would not have existed.

Q. That is, had it been as an entity the green line from Winnipeg to Edmonton, for instance, would not have been built?

A. That would be a logical assumption, yes.

Q. In other words, the one main line, the black line, with properly connecting branch lines, would have been sufficient?

A. Yes.

COMMISSIONER INNIS: Q. Was not your green line built as the Canadian Northern, perhaps located better from the standpoint of traffic than the Grand Trunk Pacific?

A. Well, that is debatable. Certainly the locating engineers of the Canadian Northern were probably the best locating engineers in Canada. They sought a combination of traffic possibilities along with main line potentialities. In order to effect that compromise -- and it undoubtedly was a wise compromise -- they introduced into their main line certain disabilities of alignment and grades. Now, that is why I hesitated when I said one or the other. If one were doing it as a unit design, I am not certain that the black line would have been built, but one of them would not have been built.

MR O'DONNELL: Q. That is the point you are





principally interested in making?

A. Yes.

THE CHAIRMAN: Q. That is between Winnipeg and Edmonton?

A. That is between Winnipeg and Edmonton now, sir, but the original duplication extended all the way up to Red Pass Junction, where you see the green line departing out to Prince Rupert. That piece from Edmonton to Red Pass Junction was co-ordinated in World War I and before the lines were taken over by the Dominion Government. It was done as a war measure, because it was plainly a duplication and they sadly needed the rails overseas.

COMMISSIONER INNIS: Q. In Southwestern Ontario there have been no substantial lines added since the Grand Trunk?

A. No, but this system is a system which is a consolidation, not purely of the Grand Trunk and the Canadian Northern each as a unit design. The Grand Trunk itself was not built as a unit design. It went through a period where it was faced with very much the same problem, and we as inheritors of the Grand Trunk became the inheritors of that lack of unity of design. The Great Western and the Grand Trunk each had main lines in Ontario, and the branch line disposition with relation to the chosen main line is not now ideal.

Q. Well, that would have been shaken down pretty well by the time you---

A. Well, this lack of unity, sir, never shakes itself down; it is a continuing disability.

MR O'DONNELL: Q. Now, is there anything else you would like to add, Mr. Fairweather, concerning Exhibit 258?

A. I do not think so, sir. It tells the story on the face of it.



MR FRAWLEY: Why have you left Newfoundland out?

MR O'DONNELL: I beg your pardon?

MR FRAWLEY: I do not see any Newfoundland.

MR O'DONNELL: Well, there is no duplication of main lines in Newfoundland, which is the purpose of this particular map.

Q. Now, Mr. Fairweather, with further reference to the same page 9 of Mr. Gordon's statement, Mr. Gordon told the Commissioners that the system has more mileage than is functionally necessary to meet its immediate requirements. At the middle of page 9, my lord, the statement is:

"The System has more mileage than is functionally necessary to meet its requirements. The excess mileage has been reduced to some extent by abandonment of duplicating facilities where this could be done without injury to the national economy. This applies to those instances where the duplicating facilities were located so closely together that one of the lines would serve all needs of the community. Generally, however, this is not the case and the lines which are functionally duplicate as main line also serve the local needs of the communities through which they run. The practice in such cases was to choose the better line as the main line and to continue the other in service as a secondary line.

There are 3820 miles of line on the Canadian National which were originally constructed as main line and which in the process of co-ordination have been reduced to secondary lines."

Will you please give the Commission such information as you think necessary to explain those statements?

A. Well, I have a sketch map in this case which shows the chosen main line.

Q. Another map?



A. Yes.

Q. Will you be good enough, then, to produce this map as Exhibit 259.

This map, my lord, is identifiable by the notation on the lower right-hand corner, which reads "Map illustrating duplication of Canadian National Main Line mileage."

---EXHIBIT 259: Map illustrating duplication of Canadian National Main Line mileage.

MR O'DONNELL: Q. Now will you explain that, giving such information as you think necessary?

(Page 19130 follows)





A. This sketch map, Exhibit 259, shows the lines which are now comprised in the Canadian National system and which were constructed as main lines.

Again, as in the previous sketch map, the chosen main line is shown in black, while the main line reduced to secondary status is shown in green; the abandonments are shown in red, and the main line co-ordinating connections constructed are shown in yellow.

Incidentally, when you go into this in detail, the figure of 3,820 which is stated in the Brief, ought to be 3,912.

Q. You say the figure ought to be 3,912?

A. Yes.

Q. Instead of 3,820.

THE CHAIRMAN: That is on page 9?

MR. O'DONNELL: Q. Yes, my lord, page 9, the fourth line from the bottom. The figure should read 3,912 instead of 3,820.

A. It is made up of 4,446 miles of line originally constructed as main line; 96 miles which were constructed as co-ordinating connections for main line purposes, less 630 miles which have been abandoned, leaving 3,912 miles.

THE CHAIRMAN: Q. Did you say 638 miles?

A. No. I said that 630 miles have been abandoned.

MR. O'DONNELL: Q. So that the total of the red lines amounts to 630 miles. Would you just indicate where the red lines are principally?

A. Well, the principle red line would be from Edmonton, or near Edmonton, to Red Pass Junction, which I mentioned previously.

Q. That is, west of Jasper?

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A. Yes.

THE CHAIRMAN: Q. What are the black lines?

A. That is the retained line.

Q. And above it is the green line?

A. That is a symbol of abandonment.

Q. Green and red together?

A. Green and red together.

MR. O'DONNELL: Q. Red is superimposed on the green between Edmonton for a distance slightly west of Jasper, representing abandoned lines?

A. That is right; and you can see those little yellow dots there. They represent co-ordinating connections which were made, because in that particular abandonment, an engineering commission was set up to choose the parts of the respective lines which could best be retained.

Q. An engineering commission set up by whom?

A. It was set up by the Dominion Government during World War One?

Q. And it was on their recommendation that what is now the black line was retained in lieu of the red line?

A. Yes, and each railway received running rights over the other retained line.

Then you will see in other locations a odds and ends of line abandonments. The principal one would be that which you see going into Toronto, the Canadian Northern Line from a point near Napanee into Toronto that has been abandoned. That was the Canadian Northern original main line between Toronto and Ottawa.

Then, other bits and pieces will be seen at various places, and they all add up to 630 miles.

Now, the little bits of yellow that you see there



from point to point add up to 96 miles.

THE CHAIRMAN: Q. What does the yellow mean?

A. The yellow represents lines which were built to make connections.

Q. 96 miles?

A. Yes, 96 miles. Perhaps the best illustration is the one from Nakina to Longlac, which is north of Lake Superior.

You will see that it makes a connection between the National Transcontinental and the Canadian Northern, and the present main line consists of a combination of the two.

MR. O'DONNELL: The Duff Commission made some study, did it not, of this subject?

A. The Duff Commission looked into this matter and expressed the opinion that something over 4000 miles of line represented duplication in the Canadian National Railways. However, the figure I have shown is 3,912.

Q. I think you said there were 4,446 miles of -

A. Of what I would call original duplicate main lines.

Q. And that is represented by the green lines?

A. Yes, that is represented by the green lines.

Q. Is there anything else you think you should state with respect to that Exhibit 259.

A. No. I think the exhibit illustrates the point.

Q. Will you now turn to page 10 of Mr. Gordon's statement, still referring to this matter of co-ordination of cost.

The statement is made on page 10, that the maintenance and operation of these lines is a burden upon the system, and that it should be taken into account when considering





the capital structure of the system, and that the estimate - which would be explained by you - had been made that such a burden constitutes an operating disability in excess of \$8,000,000 annually.

Would you please comment on this matter, indicating to the Commission such details as you think appropriate concerning your estimate?

A. Well, it must be obvious that if there is something like four thousand miles of railway in the Canadian National more than is functionally necessary, it must constitute somewhat of a burden on operating account. The only question which arises is: How much you shall evaluate that burden at?

If you evaluate it at the average operating cost per mile of the Canadian National, you would get a figure which would be approximately \$70 million a year.

Now, as <sup>an</sup> analyst I could not support any such estimate. I do, however, think that one can make an approximation to the disability in this particular case, by estimating the amount of additional maintenance and additional train and station services which you perform on these retained secondary lines above the standard <sup>would</sup> which you have, if they were purely branch lines.

Such an estimate is necessarily a matter of judgment. But in my judgment this additional operating cost per mile would be somewhere between, let us say, \$2,000 and \$2,600 per mile.

I think that \$2,000 would be too small, and I think that, perhaps, \$2,600 a mile might be a fair figure.

Now, if you take the \$2,600 per mile and multiply it by 3,912 miles, you will get a disability of \$10,200,000 per year.



Now, that does not tell the whole story because there is this added figure. Your branch lines feed in general into these secondary lines which are maintained, and it does not pay you to try and make your long hauls on these secondary lines. But nevertheless you have to handle traffic over the secondary lines in order to reach the main lines, and in doing it you have to take a certain operating disability because your train loading on the secondary lines will not be as good as it will be on the main line.

Moreover, all transportation men know that your ability to run full train loads depends on the volume of your traffic.

If you have got a lot of traffic, you can handle full trains; but if you have not got a lot of traffic, and you have to divide your traffic between two lines, then you sacrifice something in those cases.

I have made an estimate of what that amounts to in Western Canada and I find that it comes to a figure of around \$200,000 a year, for just that single item.

Q. And when you say "in Western Canada", you mean what?

A. I mean the Prairie Provinces, Manitoba, Saskatchewan, and Alberta.

That adds up to \$10,360,000 according to my figuring. And then, to be sure I was on the safe side, I took approximately 20% off of that to get my figure of \$8 million. In my judgment, the \$8 million is a very conservative figure.

COMMISSIONER INNIS: Q. Don't you think that is a little high? After all, take the line between Edmonton



and Winnipeg. It is true that the line should not have been built in exactly the same place it has been built, but it is new territory.

A. Oh yes. I do not deny that. But I think, in only allowing, as I have, around \$2,600 per mile as the extra charge, whereas the average charge is somewhere around \$18,000 per mile, I do not think I have been too unreasonable.

I certainly feel that \$8 million is an understatement. Certainly on these retained main lines we have to maintain a quality of service which is higher than the quality of service that they would be performing as branch lines under unit operation.

You see, I do not say here that these lines should be abandoned. I say that they have been changed in their purpose, but they could not be changed in economics, and the operating cost is there.

The people who built them gave a hostage to Fortune, and we have to continue to operate them, somewhat in the sense that they were designed for.

MR. O'DONNELL: Q. Is that all you would like to say on this point, concerning that item?

A. I think that is an answer to the question.

Q. Well then, would you please turn to the next page of Mr. Gordon's statement concerning "Effect of Acquisition of Unremunerative Lines in National Interest".

Mr. Cooper has already spoken of this and given certain information from accounts concerning the cost of acquisition and of rehabilitation of these lines.

Have you any comments to make concerning this subject in addition to those made by Mr. Cooper?





A. It was the practice of the Canadian National management in cases like this to make a thorough investigation of the effect of the acquisition of these lines upon the net income of the system, and I was charged with that responsibility.

Q. And when you say "these lines", you refer to those which are set out in detail at the top of page 12?

A. Yes.

Q. You mean those five lines which are there listed?

A. Yes.

THE CHAIRMAN: Q. You used the word "acquisition". Does that mean that these lines were entrusted to you?

A. These lines were acquired.

MR. O'DONNELL: Q. Was not one of them referred to in the Duff Report at page 22?

THE CHAIRMAN: Yes, they are mentioned at page 22 of the Duff Report and at page 12 of Mr. Gordon's statement?

MR. O'DONNELL: Yes.

THE CHAIRMAN: What is their position towards your Company? Are they entrusted lines?

MR. O'DONNELL: No. These lines were acquired by purchase, and the cost is set out.

THE CHAIRMAN: They were acquired by purchase, and the cost is set out?

MR. O'DONNELL: Yes, set out on page 22 of the Duff Report. We referred to it the other day.

THE CHAIRMAN: Were they purchased at the expense of the Canadian National Railways or directly by the Government?

MR. O'DONNELL: No, I think they <sup>were</sup> taken over directly by the Canadian National Railways.



I think the recommendation of the Duff Commission was that it would have been better if the Government had assumed this burden directly:-

"....and thus avoided saddling the railways with capital charges and operating expenses resulting from the purchase of railways based solely on a public policy."

I have just read from a part of the paragraph which is in the Duff Report beginning at the bottom of page 22.

(Page 19145 follows)



- 19145 -

Mr. Fairweather.

MR O'DONNELL: My friend Mr. Friel draws my attention to the fact that there was an act of acquisition in each one of these cases.

COMMISSIONER ANGUS: How were the prices determined?

A. By negotiation.

Q. Between the Company---

A. Between the Company and the owners.

MR O'DONNELL: Q. As a matter of fact you made a study I understand, Mr. Fairweather, in each case.

A. I made a study in each case.

Q. As to the probable effect of the acquisition of these lines upon the system net revenues.

A. I did that.

THE CHAIRMAN: This was about 1929?

MR O'DONNELL: 1929, my lord.

THE WITNESS: They were all acquired in 1929.

COMMISSIONER ANGUS: Q. And as far as the Canadian National railways are concerned, were they freely negotiated prices?

A. They were negotiated by the Canadian National with the owners as far as I know quite freely. I know of nothing that lacked freedom in the negotiations.

Q. Of course you paid fairly high prices for what seems to have very little earning power.

A. That is quite true.

COMMISSIONER INNIS: Would the fact that 1929 just preceded the election be a consideration?

A. I wouldn't know.

MR O'DONNELL: That may be a realistic approach to the matter. It would be hard to find any concrete evidence of this, I presume, but one may speculate I suppose





- 19146-

Q. Mr. Fairweather, you say that you made a report or study in connection with each one of these railways and the possible effect which they may have upon the Canadian National system. Would you please tell the Commission what you have to say in that regard concerning the estimate which has been made in connection with it.

A. Yes, an estimate of this character depends upon a detailed examination of the property to determine its physical condition, a detailed examination of their rate structure to determine what charges they were making, and a detailed study of the traffic they handle. All of these were gone into. It was determined for instance that in practically all of these lines except two, the St. John and Quebec, <sup>and the Quebec,</sup> /Montreal and Southern, non-standard wages were being paid to employees, using the term "standard" to mean Canadian National.

THE CHAIRMAN: You mean under standard? They were under standard.

MR O'DONNELL: That is, when they were operated before by the private owners they were paying lower wages than the system wages?

A. And their working conditions were different, the agreements under which the men worked did not conform to Canadian National standards. It was necessary therefore to estimate how much increase there would be in the wage bill when the lines were operated by the Canadian National, because it was evident that under Canadian National management wages would go up to the Canadian National standard, and working conditions would be those of the Canadian National wage agreements.

Q. That is, the unions would force that situation upon you under the agreement?

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A. Yes, and I think that even if they did not force it, I think that you could not have incorporated in the Canadian National system orphans where the men were getting less than standard wages.

COMMISSIONER INNIS: Were the rates reduced and brought into line as well?

A. You are speaking of freight rates?

Q. Yes.

A. Well, the next study was to examine the rates under which traffic moved.

MR O'DONNELL: As a matter of fact the Chairman made reference to the statement there that: "on the other hand rates for transportation services had to be reduced". I was going to ask you in the next question to explain that specifically. Possible you might do it right now.

A. Yes, I think it is logical right at this point. To make such a study we first determined in detail what traffic was being handled on the line in question, and we divided it between the traffic that was local to the line, that is traffic/<sup>that originated</sup>and terminated on the line, and traffic that was interchanged with the Canadian National Railways or other railways. We then took that traffic and determined what the rates were, that is, for the local traffic we applied the current local rates of the line in question, and for the traffic interchanged with the Canadian National or other lines we knew exactly from the interchange accounts how much revenue was being collected from the shippers.

Such a schedule having been prepared, it was submitted to the Traffic Department, and they evaluated the traffic in terms of the rates which would be made applicable where the line was part of the Canadian



National system. Now, almost invariably that meant a reduction, both in the local rates and in the interchange rates; not invariably but almost invariably. You see, a line such as the Gaspé line operating as a branch line from the Canadian National system and having traffic to hand over to the Canadian National, took the attitude that they should get the full local rate from the point of connection to the point of delivery or origin on their line. Then at that point of connection Canadian National would take the traffic and apply to it either the Canadian National local rate or a joint and proportional rate if it was inter-lined with some other railway.

When the line became acquired by the Canadian National there was no basis upon which one could support such a rate structure, and the Gaspé railway was treated as if it were a branch line of the Canadian National. It got the benefit of the local Canadian National rates if they were lower than the previously existing rates, and shippers also got the benefit that they were able to ship on a through one-line rate from the point of shipment to destination. If the movement was beyond the junction at Metapédia, then another thing which had to be looked into was the condition of the property.

MR. O'DONNELL: What you have given, I think Chairman, answers the query you made the other day as to the reduction of rates on those lines which were taken over for transportation services.

COMMISSIONER INNIS: Would you have any situation such as we had described for the Canadian Pacific where the Quebec Central, I think it was, although part of the line or a subsidiary, still has an inter-line rate?

A. I could not speak for the Canadian Pacific.

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Q. Have you any such lines in the Canadian National?

A. Have we any lines? I don't know of any.

Q. You have no inter-line with any of your subsidiaries?

A. Not with any of our subsidiaries. You call them subsidiaries: they are all consolidated into an operating entity.

MR. O'DONNELL: In so far as your line is concerned?

A. Yes. As far as I know we have no such condition where we make inter-line rates between parts of the system. I never heard of such a system.

THE CHAIRMAN: Coming back to the origin of these lines, I asked you a while ago whether they were acquired by the Government or by the Company. You see, the brief says:

"From time to time the Government has acquired and has caused to be incorporated in the National system in the national interest."

Then I find that the Acts are all Acts which authorise Canadian National Railways to purchase; they just authorise them to purchase, that is all. To look at the Acts it appears as if they were left free; they were authorised to purchase these lines. Then the wording of your brief again says "in the national interest". Well, is your attitude today to say that in reality these lines were forced on you?

MR O'DONNELL: I think the words "has caused to be incorporated in the National system" mean there was an Act in each instance.



THE CHAIRMAN: Having regard to the statute which clearly authorises you to purchase them?

MR O'DONNELL: Well, that is the understanding I have. I don't think they went out looking for the lines themselves.

THE CHAIRMAN: Supposing nothing had been done? I am looking for the force of these words, "in the National interest" Supposing these five lines which you set out here had not been purchased, taken over, what would have happened to them likely? Would they have fallen into disuse?

MR. O'DONNELL: Well, they might have struggled along, possibly, and got into trouble like a lot of other lines. I don't know.

THE CHAIRMAN: You see, you set up the national interest as being the reason.

MR O'DONNELL: As to that, I point to the express finding of the Duff Commission, my lord, that these five railways among the others were acquired, the purchase of the railways was based solely on public policy. The Duff Commission said:

"The recommendation of the management is understandable under the circumstances, but the Commission believes it would have been better had the Government assumed this burden directly and thus avoided saddling the railways with capital charges and operating expenses resulting from the purchase of railways based solely on a public policy."

THE CHAIRMAN: You see, that is the only flaw, you might say, that that Commission finds in the proceedings.

MR O'DONNELL: Yes.

THE CHAIRMAN: They do not say the lines should



have been allowed to go . They say the Government should have purchased them, not charged them to the Canadian National Railways.

MR O'DONNELL: If I read the beginning of that paragraph it might just point it out:

"In explaining the 1929 acquisitions it was stated by representatives of the Canadian National Railways that the "technical" recommendation to purchase came from the Canadian National management, but that, with regard to some of them it was recognized that they were not of advantage from a strictly railway point of view. All of them were, however, in a territory served by the Canadian Government Railways and were <sup>natural</sup> adjuncts to that system. It was also stated that the service on these short lines under private ownership had been, for the most part unsatisfactory, and that this led to a strong public demand that the Government should take over the railways. This agitation finally resulted in the lines being taken over, although it was admitted that the condition of these roads and their earning power were such that they must be a burden on the railway system. The recommendation of the management is understandable under the circumstances, but the commission believes that it would have been better had the Government assumed this burden directly and thus avoided saddling the railways with capital charges and





and operating expenses resulting from the purchase of railways bases solely on a public policy."

THE CHAIRMAN: When you use the words "in the national interest" I suppose you mean that something had to be done about it. They could not be allowed to lapse, is that the idea?

MR O'DONNELL: I think it would be used synonymously with the words "public policy" as used by the Duff Commission.

THE CHAIRMAN: For instance you have the Gaspé line. Does this mean that if this line had not been taken over by somebody, there would be no railway in Gaspé?

MR O'DONNELL: That might ultimately have been their fate. The Commission says: that the service on these lines was unsatisfactory and there was strong public demand and that the Government should take them over, and as a matter of national policy---

(Page 19153 follows)



THE CHAIRMAN: Your only objection is, you follow the suggestion of the Duff Commission.

MR O'DONNELL: Yes, my lord.

THE CHAIRMAN: You say that instead of these lines having been charged to the company they should have been taken over directly by the Government and made part of the Government Railways.

MR O'DONNELL: That is right.

THE CHAIRMAN: And entrusted to you to operate.

MR O'DONNELL: Yes; and, that not having been done, as the Duff Commission said, we were saddled with that burden, with the capital charges and the operating expenses resulting from that.

THE CHAIRMAN: You do not say that as a matter of national policy these lines should have been abandoned?

MR O'DONNELL: I would not say that, no, my lord.

THE CHAIRMAN: And the Duff Commission does not say that.

MR O'DONNELL: No. They simply say that they were all in Canadian Government Railway territory, were natural adjuncts to Canadian Government Railway, and that the complaint and the strong public demand was that the Government should take these particular roads over, and that that was done. The service on these lines and the lines under private ownership had been for the most part unsatisfactory, and they were taken over, notwithstanding that the condition of the roads and their earning power were such that they must be a burden on the railway system. Notwithstanding that, as a matter of public policy they were taken over, and I think when the brief uses the words "in the national interest"---

THE CHAIRMAN: Yes, but, notwithstanding that, your only objection is that, instead of being taken over by



the Government, they were---

MR O'DONNELL: Foisted on to the railroad, yes, and the charges fell on the railroad, and it is a burden that should have been adjusted.

THE CHAIRMAN: As I say, though, the statute simply provides that you are authorized to purchase them.

MR O'DONNELL: Yes, that is true, my lord, but then the owner of the railroad is the Government, and the---

THE CHAIRMAN: I do not say that. I mean, it would look there as if you were allowed an option of purchasing them or not.

MR O'DONNELL: Well, that is not what the Duff Commission found when it looked into the matter.

THE CHAIRMAN: "The Canadian National Railway Company (hereinafter called 'the Purchaser') is hereby authorized to purchase the Inverness Railway", and the price is fixed, and the Governor in Council may provide for the raising of the money necessary to pay the price as specified in this Act for the property sold. Then it provides about the purchase -- that is, the Railway issuing notes, obligations, bonds and debentures and the Governor in Council guaranteeing them.

MR O'DONNELL: I think, on the statement in the submission, that they were caused to be incorporated in the National System in the national interest, it is really putting the matter on the same basis as the Duff Commission placed it, that as a matter of public policy they were taken over because of the public demand and the unsatisfactory service being rendered by the private owners, and the Duff Commission said that should better have been done by the Government assuming the burden directly and avoiding saddling the railways with the charges.

Shall I go ahead, my lord?





THE CHAIRMAN: Yes.

MR O'DONNELL: Q. You were going on, Mr. Fairweather, to explain the estimate there of \$12 million negative capital, as you call it, which appears at page 12 of the brief, concerning the cost of acquisition and rehabilitation of these particular lines. Will you please proceed?

A. Well, I have dealt with the wage situation, I have dealt with the rates, and I was proceeding to talk about the condition of the property. The condition of all of these properties was decidedly poor. They had been attempted to be operated by their then owners with inadequate revenues, and they had naturally let their property go to pieces. The equipment which they owned was in such deplorable condition that you could not interchange it with them, and the Canadian National Railways had to supply all of the equipment for off-line loading.

Q. You mean the equipment in such condition it would not meet the safety standards of the system and could not be used?

A. I mean just that, yes. And their track structures, their rails, ballast, everything of that nature, was on such a haywire basis that it was not safe to operate. Consequently we had to take into account the rehabilitation costs, and in setting up the economic disability of acquisition the interest upon the cost of that rehabilitation was included as a disability. It is a substantial figure in capital amount, and even expressed as an interest charge it was still considerable. These estimates for each individual line added up to a total of \$408,000 per year for this group of five lines. It is the measure of the adverse effect upon the system net income of these lines as of the date of their incorporation into the Canadian National System, but without



any interest upon the cost of purchase.

A check made by me subsequently showed that that figure was reasonable; it is estimated at around \$400,000 in a subsequent check, after the lines were acquired, so I think it can be taken for granted that the cost was somewhere in the neighbourhood of \$400,000 per year adverse to the Canadian National before the cost of acquisition; and I notice here from notes before me that in these cases interest upon the cost of rehabilitation was not calculated, so this \$400,000 I am speaking about is purely the wage costs and the traffic evaluation. That actually ties in with the brief, because the cost of rehabilitation is given as a separate item, so that the \$400,000 does not duplicate it.

Q. Now, did you compute the \$12 million negative capital on the basis of \$400,000 a year?

A. No. I discounted the figure of \$400,000 by 10 per cent to be on the safe side, and used a figure of \$360,000 as the adverse net effect, which, capitalized at 3 per cent, gave me negative capital of \$12 million.

Q. Now, just while you are on that point, negative capital when you use it that way -- will you just tell the Commission what you mean by that?

A. It is nothing but a graphic phrase expressing the amount of capital that you would have to have in reserve to produce by its interest return the amount of the disability in operating account that you are suffering.

THE CHAIRMAN: Q. Could you say that a man with a salary of \$10,000 had a negative capital of so much?

A. I would not say a man with \$10,000---

Q. Salary.

A. Salary -- would have negative capital?

Q. Would that illustrate it?



A. Oh, no, I would not say that, but I would say this, that if I incur some loss which is a current and a running loss, and I want to evaluate it in capital terms, I think it would be quite proper to capitalize it and say that it is negative capital.

MR O'DONNELL: Q. And this is to take care of this continuing year-by-year loss?

A. Yes. It simply means this, that if the Canadian National desired to be made whole as compared with what I have been presenting, somebody would have to give the Canadian National \$360,000 a year, or they could give us a lump sum of \$12 million, and one is the equivalent of the other.

Q. And you would hope to get 3 per cent on that?

A. Yes.

Q. And have sufficient moneys to take care of this operating disability?

A. The use of negative capital in this sense is simply a convenient way of evaluating the disabilities, that is all.

Q. As to these five lines, Mr. Fairweather, you are speaking with first-hand knowledge of the situation; I think you said you made a study in the first instance yourself?

A. Every one of these studies was made under my direction.

Q. That is, prior to acquisition in the first instance?

A. Prior to acquisition, and as a guide to managerial policy.

Q. And then at a later date you made a check?

A. At a later date I made a rough check to see whether after acquisition the results supported my original estimates, and I found that it did within the limit of accuracy that one expects.





Q. Now will you just go to a further paragraph on that same page 12, where Mr. Gordon mentioned the operations of the Newfoundland Railway and Steamship Services, and said that they would constitute a burden on the system income to the extent of \$4 million yearly. Mr. Cooper told the Commission of the results experienced to date concerning these services. Now, would you care to comment on that matter, and particularly upon the effect which the operation of those services may in your view have upon the system income account in the future?

A. Well, here we are dealing with a very special matter, and I also in this case have some special knowledge of it, because I was on a committee to deal with the transportation features when Newfoundland became a province of Canada.

Anyone who knows the Newfoundland Railway and Steamship Services first-hand knows that it is a very essential service for Newfoundland. Anyone would also quickly realize that if you tried to collect from the people of Newfoundland enough revenue to pay for those services the charges would be fantastic as compared with the charges in the rest of Canada. That is the reason why this heavy deficit must be anticipated.

The Newfoundland Railway is a narrow-gauge railway, it traverses a very rugged country, where you no sooner climb out of one river valley than you plunge down into another, the grades on the Newfoundland Railway are about  $2\frac{1}{2}$  per cent, and I think the curves run up to 15 or 16 degrees, and the rise and fall (which is a technical term engineers use to describe the condition of a railway) is something out of this world.

In addition to the railway there is a Steamship Service, a coastal steamship service, which brings mail and



merchandise and furnishes passenger accommodation to the outports, as they are called, along the coast of Newfoundland. It is a service which cannot conceivably be expected to pay its way, because it requires a class of boat to combat the weather which is quite out of proportion to the traffic that would be offered.

For those reasons the unit cost of doing business in Newfoundland I should surmise would be easily -- oh, I would think it would be three times the cost of doing business on the mainland. That is why we have contemplated a deficit.

The deficit for 1950 is estimated at \$4,253,000.

Q. In round figures?

A. In round figures; and, to allow something on the conservative side, it was taken into this estimate at \$4 million. I am quite certain that we will have to make substantial expenditures in Newfoundland. Some of them will be remunerative, but many of them will not, and in this particular case I can see no hope where increasing traffic would overcome this deficit situation, because in my opinion the out-of-pocket cost of earning a dollar of revenue in Newfoundland is above the revenue.

THE CHAIRMAN: Mr. O'Donnell, I see the paragraph in question refers to the entrustment, not to the acquisition.

MR O'DONNELL: That is right. Yes, in this case there was an entrustment.

THE CHAIRMAN: Well, to whom does the railway belong now, and the steamship service? To the Government of Canada?

MR O'DONNELL: Yes, the Government of Canada; but the entrustment and operation of it---

THE CHAIRMAN: The Government itself has acquired



it?

MR O'DONNELL: Yes, my lord; and it has been entrusted to the Canadian National for operation, and the deficits on it will be merged in the system figures.

THE WITNESS: Yes.

MR O'DONNELL: Under the entrusting order.

THE WITNESS: Under the entrusting order, the Newfoundland Railway and Steamship Services becomes part of the property entrusted by His Majesty to the Canadian National Railway.

MR O'DONNELL: If your lordship thinks a copy of the entrusting order would be useful, we will be glad to---

THE CHAIRMAN: I was just making sure, in respect of the acquired lines, which were your property and which were not your property. It is all under the same heading, "Effect of Acquisition".

MR O'DONNELL: That is right, my lord.

Q. This figure of \$4,253,000 that you used is the figure, incidentally, which is included in the annual budget which is to be submitted to Parliament on Monday, is it not?

A. Yes.

Q. And your estimate there of \$4 million yearly in round figures, you have capitalized at 3 per cent again, as you did before?

A. Producing \$134 million.

Q. Now would you please turn to the next page of Mr. Gordon's statement, page 13. Mr. Gordon and Mr. Cooper both referred to the Temiscouata Railway, and I understand, Mr. Fairweather, that you have estimated that the Canadian National will be burdened through the operation of this railway to the extent of \$180,000 a year, which is equivalent to \$6 million of what you have termed negative capital. Now,





would you please give the Commission such information as you consider pertinent to this particular case?

A. This again is an instance where I examined into the effect upon the Canadian National net of the incorporation into the Canadian National of a line---

THE CHAIRMAN: Pardon me, Mr. Fairweather. This line, the Temiscouata, is not one of those mentioned at the top of page 12.

MR O'DONNELL: No, my lord.

THE CHAIRMAN: Again I should like to know, does it belong to the Government or---

MR O'DONNELL: I understand this was bought in the name of the Canadian Government Railways.

THE WITNESS: This particular line was bought by His Majesty. The history of this particular line is that it too started to run down when revenues were inadequate to meet expenses. I may say that both the Canadian National and the Canadian Pacific Railway tempered their treatment of this line to keep it afloat, and, notwithstanding that, in the post-war period the situation developed where it got into very, very serious difficulty. The study I made indicates that the incorporation of this line into the Canadian National System produces about \$180,000 a year adverse effect. That is after taking into account all of the items which I have dealt with in the examples of the Gaspé Railway and the Kent Northern Railway, and in this case in addition to that the interest on rehabilitation, because the rehabilitation cost is not shown separately in the brief, so in this case the interest on rehabilitation is included. It produces a condition of \$180,000 adverse effect. It may be of interest to you to know that in this particular case the rate reductions amounted to \$159,000. I happen to have the figures here.



MR O'DONNELL: Q. That is, as a result of the taking over?

A. Yes.

Q. The rates previously in force were in effect reduced by \$150,000?

A. \$159,000 per year.

THE CHAIRMAN: Q. What is the extent of this Temiscouata Railway?

A. Pardon, sir?

Q. What is the length, the mileage, of this Temiscouata Railway?

A. It extends from Riviere du Loup to Edmundston, that is a distance of about 80 miles, and then a little branch line out to a place called Connors. I suppose the whole thing would add up to a little better than 100 miles of railway.

MR O'DONNELL: Q. And you made your study---

A. It adds up to 101 miles.

Q. You made your study of the situation, Mr. Fairweather, before it was actually entrusted to you?

A. Oh, yes. These estimates were for the purpose of advising the management during the negotiations. In this particular case the Canadian National was authorized by the Government to negotiate, and we did negotiate the purchase.

Q. And in the course of your negotiations this study you speak of became necessary, and you made it yourself?

A. It was made under my direction.

Q. Under your direction, yes; and you are familiar with and responsible for it?

A. Yes.

Q. Now, the agreement when made was confirmed, was it not, by statute?

A. The purchase agreement?



Q. Yes.

A. Oh, yes.

MR O'DONNELL: I think, my lord, it will be found in last year's statutes.

Q. Then, unless you have something else to add, Mr. Fairweather, to the matter of the Temiscouate Railway, I will go to the next question. Have you anything else to add?

A. No, I have nothing else to add.

Q. Your computation there again of the adverse net result annually of \$180,000---

A. \$6 million equivalent capital.

Q. Becomes \$6 million equivalent negative capital. Now, in the next paragraph on page 13, under the heading "Effect of development lines" on the Canadian National, I would ask you to comment on that. Possibly you might first of all explain to the Commission what a development branch line or a development line is. I think his lordship asked that the other day.

A. Well, in my judgment a development line is nothing but a branch line which is built to tap the natural resources of the country and make them available to the commerce of the country.

THE CHAIRMAN: Yes, it is important, because on page 15 that paragraph 3 asks for special provisions for future development lines.

MR O'DONNELL: That is right.

THE CHAIRMAN: Q. That means development branch lines?

A. Development branch lines, yes, sir.

COMMISSIONER ANGUS: Q. In the interest of the railway system or in the national interest?

A. Well, ultimately we would hope in the interest of the railway system, but very rarely would you find one of





these development lines adding to the net income of the system for many, many years. I would think that it could not be expected on the average to reach a position where it added to the net income of the railway, oh, for fifteen years.

THE CHAIRMAN: Q. You do not name these lines, you do not tell us what lines; you give us the amounts, but you do not say---

A. Well, there are a lot of these lines. For instance, here is a typical one, the Flin Flon branch line; it cost \$6,250,000.

Q. How much?

A. \$6,250,000. There is the Sherritt-Gordon line, which was built to serve the Sherritt-Gordon Mines; that cost \$2,614,000. There is the Noranda line, built to serve the Noranda property; it cost \$3,565,000. There is the Senneterre branch line---

Q. What is the last one?

A. Senneterre, in Northern Quebec; it runs from Noranda to a place called Senneterre; it cost \$5,641,000. And our most recent development line is the Barraute line, 40 miles in length, north of the Transcontinental, and that cost \$2,621,000. Those are samples of this type of activity.

(Page 19167 follows)



THE CHAIRMAN: Q. How did you come to build these lines, these particular lines? Was it by a Statute?

A. The history of these lines is quite simple. And I might say that I am the Chief Development Officer of the Railway.

The practice would be for the person or persons, or organization that had some development in mind, to come to the Canadian National and to tell us their plans, and to ask us what their chance was of getting a branch line.

We are having such visits from industry all the time. As a matter of fact, there are three of them at the present time under consideration.

We say to the industry: Just what are your plans? What is it you propose to do? What is the extent and the nature of the natural resources you wish to develop? And how much of your capital are you going to put into the development of it? Where do you expect your markets to be, and everything of that nature?

We then are able to get an approximate idea of how much traffic we might expect from that particular industry.

We next examine into the possibility of this line being of use for general developmental purposes; that is, it might open an opportunity to other entrepreneurs, or to settlement.

And with this information we make a report to the management which is either favourable to the idea or adverse to it.

I well remember that when the Noranda line was applied for, it was turned into our department. I was not, at that time, at the head of the department, but I was



actively engaged in the matter.

The Noranda interests showed us exactly what they had in mind, and they said: We want a branch line. We cannot go into this property without a branch line.

So we sent a man up to the property, and we were furnished with the information with regard to the development as it stood at that time, which was in the prospect stage. And he came back and we had to make up our minds whether or not that branch line was justified in the light of the information disclosed.

In that particular case we recommended in favour of it. And it was considered by the Canadian National management and was then submitted to Parliament with a request for an Act that would permit the Canadian National to build the line in question and to provide for the financing of it.

In many other cases you will find, not a particular industry, but conditions where, in an agricultural community, there would be a desire to extend a branch line for the purpose of improving the transportation situation of the farmer.

Many branch lines built in the 20's were of that character.

Our procedure in cases like that is to make a survey of the agricultural potentialities of the country proposed to be served, to estimate the cost of service by the Canadian National, and to try to balance that up against the benefits which the farmer's would secure.

Generally speaking on these agrarian lines, the direct return from the hauling of a farmers produce and his supplies, and one thing and another, would not be





sufficient to produce a balance in favour of the line; but when you lift your sights to include the whole national economy, it might be different.

COMMISSIONER ANGUS: Q. To include the whole national economy, or to include the future earnings of your system?

A. The whole national economy primarily.

I made a study of the development of wealth in Western Canada with regard to the development of railways, to see if there was any indication of the law of diminishing returns operating, and I failed to find it up to the time that I made the study.

The study showed about \$14, I think it was, of increase in national wealth per dollar expended on railway development in Western Canada.

Now, that does not mean that these branch lines are profitable from the point of view of the railway. But it does mean that the making of transportation available to the country does, when you add the whole thing up, produce a very substantial amount of capital wealth.

Q. But that is a type of calculation which only a Government owned railway could make.

A. I do not think the Government owned railway made it. I think that I made it.

Q. I did not mean the mathematics of it. I meant that only a Government owned railway could afford that as a justification for building the line.

A. "As a justification for building the line"?

Q. Yes.

A. I did not intend it to be meant as a "justification for building the line."



Q. Oh, I guess I misunderstood you.

A. I wished to find out whether construction of railways in Western Canada - whether the law of diminishing returns was operating; and I examined the increase in wealth growth as against the increase in the railway industry, and I could not find any evidence that the dollar put into railway construction in this period was less productive than the dollar put into it in a previous period.

Q. And in considering an application of whether a line should or should not be built do you think that this calculation about the economy in general was decisive, or would it be a calculation about the future earnings of a line which would be decisive?

A. I thought I had said that my calculation did not enter into the decision to build the line, but that my study was simply made to satisfy myself, to satisfy my own curiosity, and did not have any possible connection.

THE CHAIRMAN: Were these lines already built which you are talking about?

A. Yes, they were already built. There was no speculation about it.

Q. I mean such lines as those you mentioned, the Sherrit-Gordon, the Noranda, and the Flin Flon; you say that the Company decided, itself, to build them?

A. Oh, yes, the Company decided, itself, to build them based on recommendations and on submissions made.

Q. So the only objection about it now is the manner in which they were financed?

A. I think that can best be explained this way: it has to do fundamentally with the maintenance, in the



future of a reasonable relationship of equity capital of the Canadian National to the funded debt.

If you say, for the sake of argument, that the recommendation contained in the Brief <sup>is adopted</sup> /and if you pursue the same policy for finding capital for the Canadian National in the future as has been done in the past, you immediately start to upset the balance which you have obtained. And this is one piece of machinery designed to maintain somewhat of a balance.

You see, we normally get all of our capital as interest-bearing debt. And if we get all of our capital as interest-bearing debt, no sooner do we scale it down than we have to put additional capital into the property, and it is no mean figure. I think it would certainly average \$30 millions a year over a long period.

And in the course of time you would climb into a position where you would once more have an imbalance.

One of the measures here is, that if, in the building of development line - and I believe future developmental lines are going to be necessary in Canada - if provision is made that a reasonable proportion of that cost is provided as equity capital, it would be an automatic safeguard against our funded debt climbing to a point which is unrealistic.

THE CHAIRMAN: Q. Does that mean the Government looking after it?

A. That is all it means. Actually the cost of providing facilities is not going to be changed at all. But it does have the advantage, I submit, that it maintains somewhat of a better balance to our funded debt.

Q. What about these lines themselves. Are there





of them which you say ought not to have been built?

A. That is a very difficult question. Some of them, my lord, are actually not completed, so I think I would have to qualify my answer.

In this \$85 million there are amounts with regard to lines which in the 1920's were considered as desirable in the national interest. Then construction was stopped on them, and they lie there in a semi-finished condition.

Q. Have you named any of them?

A. One of them is the Sunny Brae, or the Guysborough branch line, and the Bonnyville branch line in Western Canada, for example. Now, it becomes a question. Certainly, they have lain dormant for more than twenty years.

COMMISSIONER ANGUS: Q. When you say the capital burden is excessive, what you really mean is the funded debt?

A. Yes, that is the point. The language may have been obscure, but the intent was the interest-bearing debt of the Canadian National should be maintained in reasonable proportion, and that unless you adopt some measure like this with regard to the future, you are going to get yourself into a position where you no sooner fix it up than it gets "out of wack", if we have no access to capital except through borrowed funds.

MR. O'DONNELL: Q. You must borrow every dollar you put into these lines ?

A. We can, of course, use our depreciation reserves, but once we have done that, when we want to use them to buy equipment, they are not available. So it is as broad as it is long.

THE CHAIRMAN: I see it is about adjournment time. I would like to say that we have decided, after



were summoned in the matter, that on Monday we would take up the Crow's Nest Pass Case and postpone the further hearing of the Canadian National Case until we were through with the Crow's Nest Case.

MR. O'DONNELL: I understand that is the wish of the Commission and we are very glad to comply with it.

THE CHAIRMAN: Have you any idea how long the Crow's Nest Pass Case will take, Mr. Covert?

MR. COVERT: It is rather difficult to say.

I have been trying to arrange with counsel that they take the Briefs in as read. There are not many Briefs and then we might finish them well within three days.

MR. EVANS: Are you including the argument in those three days?

MR. COVERT: Oh, yes.

THE CHAIRMAN: We wish to conclude the whole thing. I asked Mr. Covert how long he thought it would take. We are not saying three days.

You will remember that it has always been understood that this would be the final disposition of the Crow's Nest Pass Case.

MR. EVANS: I did not expect to be ready for argument as quickly as that.

THE CHAIRMAN: We did not expect so, either. But I understood from Mr. Covert a while ago that counsel had been consulted and that it was agreeable to all concerned to begin the Crow's Nest Pass Case on Monday.

MR. EVANS: It was mentioned to me this afternoon by Mr. Covert, but I had not previously heard about it.



THE CHAIRMAN: Then what is the true position?

MR. COVERT: I gathered from Mr. Evans it was a question of time. But that was only an estimate that I was able to make.

THE CHAIRMAN: Then it is understood that we shall begin with the Crow's Nest Pass Case on Monday and will finish with it before we take up anything else?

MR. COVERT: That is right.

THE CHAIRMAN: Very well. We shall adjourn now until Monday morning.

---At 4.10 p.m. the Commission adjourned until Monday, March 27, 1950, at the hour of 10.30 a.m.





42

ROYAL COMMISSION  
ON  
TRANSPORTATION

EVIDENCE HEARD ON

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ROYAL COMMISSION ON TRANSPORTATION

Ottawa, Ontario,  
Monday, March 27th, 1950

	<u>Index Page #125</u>
	<u>Page</u>
Joint submission of Provinces of Manitoba, Saskatchewan and Alberta - Crow's Nest Pass Rates on grain and grain products - - - - -	19175
Mr. MacPherson: - - - - -	19175
<u>DR. G. E. BRITNELL</u> - Called. Examined by Mr. MacPherson - - - - -	19176
Part I of Submission - Historical Analysis of the Crow's Nest Pass Agreement and Rates - -	19178
Appendix - - - - -	19205-A
Examination by Mr. Covert - - - - -	19210
Cross examined by Mr. Sinclair - - - - -	19220
Noon adjournment - - - - -	19248
<u>DR. G. E. BRITNELL</u> - Recalled. Cross examination by Mr. Sinclair resumed - - - - -	19249
Re-examination by Mr. MacPherson - - - - -	19279
<u>HU HARRIES</u> - Called. Examined by Mr. Frawley - - - -	19282
Part II of submission - Economic Implications of the Crow's Nest Pass Grain rates - - - - -	19282
<u>EXHIBIT No.260:</u> Index of farm and non-farm prices, 1890 to 1928, on a 1926 base - - - - -	19297
Adjournment - - - - -	19323

- - - - -



ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO  
MONDAY,  
MARCH 27, 1950.

THE HONOURABLE W.F.A. TURGEON, K.C., LL.D.,	-	CHAIRMAN
HAROLD ADAMS INNIS	-	COMMISSIONER
HENRY FORBES ANGUS	-	COMMISSIONER

-----

G.R. Hunter  
**Secretary**

P.L. Belcourt  
Asst. Secretary

-----

COUNSEL APPEARING:-

F.M. Covert, K.C.	}	Royal Commission on Transportation
G.C. Desmarais, K.C.		
H.E. O'Donnell, K.C.	}	Canadian National Railways
N.J. MacMillan		
H.C. Friel, K.C.		
F.C.S. Evans, K.C.	}	Canadian Pacific Railway
K.D.M. Spence		
I.D. Sinclair		
C.D. Shepard	)	Province of Manitoba
M.A. MacPherson, K.C.	)	Province of Saskatchewan
J.J. Frawley, K.C.	)	Province of Alberta
F.D. Smith, K.C.	}	Province of Nova Scotia; Transportation Commission of the Maritime Board of Trade.

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OTTAWA, ONTARIO

MONDAY, MARCH 27, 1950.

M O R N I N G   S E S S I O N

THE CHAIRMAN: I understand that we are to go on with the Crow's Nest Pass rates this morning.

MR. MacPHERSON: Yes. The first Brief is that of the Joint Submission of the Provinces of Alberta, Saskatchewan and Manitoba.

THE CHAIRMAN: Are you ready, Mr. MacPherson?

MR. MacPHERSON: Yes, my lord.

THE CHAIRMAN: All right.

MR. MacPHERSON: The Joint Submission of the three provinces represents the conjoint effort of the three provinces. The Submission as made is the submission of each of the provinces as well as that of all the provinces. In the preparation of the Brief the provinces worked conjointly; and for the Province of Alberta most of the work was done by Mr. Hu Harries, with the assistance of Mr. Darling; for the Province of Manitoba, by Mr. Moffat assisted by Mr. McLeod; and for Saskatchewan, Dr. Britnell and Dr. Fowke. Each of the provinces will put a witness in the box to be examined by the Commission or to be cross-examined. The first witness to be called is Dr. Britnell who will deal particularly with the first part of the joint submission.

In the submission as filed there were certain textual and typographical errors. For that reason, without changing the argument, in order to have the matter correct in every detail, Part I of the Brief has been printed and copies have been given to everyone and are available in printed form as to the part of the evidence which will be given by Dr. Britnell.



MR. SINCLAIR: In view of the fact that we have prepared our cross-examination, my lord, on the mimeographed submission, I wonder if my friend Mr. MacPherson would indicate when he comes to the part where any change has been made or any correction, whether of a factual or typographical nature, so that in conducting cross-examination we may have this information.

MR. MacPHERSON: I do not think there is anything that will worry my friend. It is a matter that has to do largely with references and the designation of references. There is nothing that will worry him in any way in that connection.

MR. SINCLAIR: I just wanted to be clear on the matter; that is all.

MR. MacPHERSON: I understand.

DR. G. E. BRITNELL - CALLED

EXAMINATION BY MR. MacPHERSON:-

Q. Dr. Britnell, you have already given evidence in presenting the Brief of the Province of Saskatchewan to this Commission before Christmas?

A. Yes.

Q. You then gave us the qualifications you had as a witness?

A. Yes.

Q. And we do not need to repeat them now. You are presenting part of the joint submission of the Prairie Provinces relative to this question of the Crow's Nest Rates?

A. Yes.



Q. And you have that submission before you?

A. Yes.

Q. Would you please commence?

A. Part I deals with the historical analysis of the  
Crow's Pass Agreement and Rates.

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PART 1HISTORICAL ANALYSIS OF THE CROW'S NEST PASS AGREEMENTandRATES

The Crow's Nest rates on grain and flour have been attacked before the Commission as a "pure historical survival". They are an historical survival but this fact does not constitute an argument for their removal. It does indicate clearly the nature of these rates and emphasizes the need for historical analysis in order that their origin, purposes and inherent necessity may be understood. The rates in question are contractual rates, instituted and maintained in fulfilment of the terms of a voluntary agreement between freely contracting parties. Though their field of application has been expanded by legislative action in certain directions it has been restricted in others, with little possibility that the balance of advantage or disadvantage from such adjustments can be appraised with any degree of accuracy.

It is our contention that among the strongest of the arguments which exist for the maintenance of Crow's Nest rates as statutory rates and at their present level are those arguments which relate to historical circumstance. It is necessary therefore, to examine the conditions under which they were agreed upon and introduced.

Crow's Nest rates were introduced by the Canadian Pacific Railway in conformity with an agreement made under an Act of the Federal Government in 1897 (Statutes of Canada, 60-61 Vic., c. 5). The Government agreed to grant the C.P.R. a subsidy of \$11,000 per mile, but not exceeding a total / \$3,630,000 for the construction of a railway from Lethbridge,



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Dr. Britnell in ch

Alberta through the Crow's Nest Pass to Nelson, British Columbia. The C.P.R., on its part, agreed to build the railway to specifications as to standard, location and time; it agreed to permit control of certain of its rates; and it agreed to introduce specific reductions in certain other rates. The latter rates as reduced in accordance with the agreement have come to be known as "Crow's Nest" rates.

The rate changes agreed to by the C.P.R. were the following:(1)

- (a) a reduction in perpetuity of three cents per hundred pounds on grain and flour from points on Canadian Pacific lines then existing in the West to Fort William and points east thereof;
- (b) a reduction in perpetuity of varying percentages on certain commodities from points on Canadian Pacific lines then in existence in Eastern Canada to points on Canadian Pacific lines then in existence in the West. The specified commodities included such items as agricultural implements, all kinds of wire, iron, nails and spikes, binder twine, roofing and building paper, window glass, paints and oils, and furniture. The reductions varied from 10 to 33-1/3 per cent and were commonly of the former figure.

One part of the Crow's Nest Pass Agreement, therefore, provided for assistance for the construction of a direct rail link between the Kootenay Valley and the transcontinental line of the C.P.R. This marked an important new step in the development and integration of the Canadian economy.

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(1) See Statutes of Canada 60-61 Victoria Chapter 5, 1897, Section 1(d) and <sup>1(e)</sup> see also Submission of Canadian Pacific Railway to the Royal Commission on Transportation (Montreal, 1949), Part 1, p. 154.



The other part of the Agreement, however, concerned the Prairie Provinces particularly and related to rate reductions on existing lines of railway rather than the construction of new lines. This part of the Agreement, then, broke no new ground and constituted merely a continuation of the prolonged effort of the Federal Government to secure adequate transportation facilities for the Prairie region and to assure the provision of these facilities to the settlers at reasonable rates. As such, the Agreement was but one further step in the working out of the National Policy.

It must be emphasized that the rate concessions made by the C.P.R. in accordance with the Crow's Nest Pass Agreement were specific to a particular region, to particular commodities, and to particular movements of those commodities. The Agreement did not require or aim at a general lowering of rates on all traffic. The reductions on eastbound traffic were limited to grain and flour moving to Fort William and beyond. These reductions were designed to improve the competitive export position of the cash staple of the Prairie region and thus to encourage that type of economic activity without which the region could not be developed. The reductions on westbound traffic applied to certain commodities, particularly agricultural implements and building supplies, moving from Eastern production centres into the West. These reductions involved the dual purpose of providing western settlers with cheaper capital equipment and of assuring that the maximum possible proportion of this equipment should be supplied by Eastern Canadian factories and carried to the West over Canadian railways.

The Crow's Nest rate reductions as a group, therefore, were clearly directed toward the furtherance of economic





development in the Prairie region and toward the linking of that development with the Eastern Canadian economy. This is the basis on which the Crow's Nest Pass Agreement, which embodied these rate reductions, must be recognized as a further step in the implementation of the National Policy.

In order to understand the importance which attached to the furtherance of economic development in the Prairie region at the time of the Crow's Nest Agreement it is necessary to review the central features of the National Policy.<sup>(2)</sup> The central point in that policy was that it envisioned the solution of the economic perplexities of the St. Lawrence and the Maritime provinces by the encouragement of interprovincial trade and by the expansion of the field of economic activity. The construction of the Intercolonial Railway, combined with tariff protection, would accomplish all that could be accomplished in the way of stimulating trade among the territories which were already developed. As for any significant measure of expansion of economic activity, the only possibilities lay in the Western territories, particularly in the region of the central plains. Gold discoveries on the Fraser River in the eighteen-fifties and in the Cariboo in the eighteen-sixties strongly suggested the possibility of economic development in the coastal area and intermountain valleys as well.

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(2) For a fuller analysis of the National Policy see the Submission of the Province of Saskatchewan to the Royal Commission on Transportation (Regina: King's Printer, 1949), Part II.



In the early days of the formulation of the National Policy the economic potentialities of the western Canadian Plains were quite uncertain. There were many who dismissed the prairie West as unworthy of serious consideration. The Hudson's Bay Company, which held proprietorship over Rupert's Land till 1869, argued that the entire area was useless except as a fur-traders preserve. There were, nevertheless, fragmentary and inconclusive bits of evidence which, taken collectively, lent support to the view that the plains area north of the 49th parallel of latitude was not entirely devoid of agricultural possibilities. Palliser and Hind, viewing the region in the late eighteen-fifties for the Imperial Government and for the Province of Canada, respectively, both reported substantial areas of fertile land between the Shield and the Rocky Mountains. The American tide of settlement swept northward as well as westward around Lake Michigan. The Red River Settlement was firmly if modestly established beyond the western margins of the Canadian Shield.

Though prospects for western expansion were highly uncertain at the time of Confederation, and after, they were nonetheless actively promoted by certain eastern newspapers such as the Toronto Globe. They were also strongly advanced by a number of members in the Canadian Legislature in the Confederation Debates of 1865. The analogy with American experience was prominent in their reasoning, the argument being that western produce would move through the eastern provinces as it did through the eastern states and that the West would provide a substantial new market for the



products of eastern manufacturers. (3) After Confederation an ever-strengthening faith in the possibility of economic expansion in the central plains impelled the Federal Government to undertake important and, in some cases, costly measures which could only be justified if that economic expansion could be attained. Title to the western territories was secured from the Hudson's Bay Company, a land settlement policy was devised, immigration was fostered, and a Pacific railway was built. Finally, protective tariffs were adopted to assure the funnelling of the inward and outward trade of the newly-developing area through the eastern provinces.

The costliest of the prerequisite instruments of the National Policy were the railroads--one to link the St. Lawrence with the Maritimes, and one to link the St. Lawrence with the Pacific Coast. Expediency rather than fundamental principle dictated whether these railroads

- (3) See for example the statement of W. McGivern (Lincoln, Upper Canada). "What then may we not expect <sup>up,</sup> our great North-West to become? If we had it opened Canada would be the carriers of its produce, as the Middle States are the carriers of the Western States and the manufacturers of its goods as the Eastern States are now the manufacturers of the goods consumed by the West."

(Canadian Confederation Debates, p. 470.)

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would be built by the state or by private companies substantially financed by state benefactions and guarantees. The Intercolonial Railway was built as a government undertaking. The construction of the Pacific railway was attempted both ways and was finally completed by a private syndicate well fortified by government grants of cash, land, completed line, security guarantees, tax exemptions, freedom from rate control, and a monopoly clause. Legally the Intercolonial Railway and the Canadian Pacific Railway emerged as distinct and sharply contrasting types of institutions--the one, state; the other, private. Functionally they began and continued as substantially similar institutions--agencies of the state designed for the furtherance of the National Policy.

The concessions made by the Federal Government to the Canadian Pacific syndicate were adequate to secure the completion of the railway across the Shield and plains to the Pacific. But the railway, operating under these concessions, did not assure the rapid settlement and economic expansion of the West. The monopoly clause, combined with a practical exemption from rate control, left the Company in a position of security against the threat of competition and with a freedom in the determination of rates and services which was not conducive to agricultural expansion in the western territories. Modifications were imperative in order that the Canadian Pacific Railway might better serve its intended purpose in regard to western economic expansion. The monopoly privilege was the first to go and was withdrawn in 1888. Rates on imports into and exports from the Canadian West remained unsatisfactory to the settlers and acted as a deterrent to western agricultural expansion. In 1897, the newly elected Liberal Government,



convinced of the importance of promoting western settlement, seized an opportunity which presented itself at that time to secure a substantial readjustment of western freight rates by agreement with the Canadian Pacific Railway.

Gold discoveries in the Kootenay Valley of British Columbia in the eighteen-eighties prompted intensive prospecting in the area which, in turn, led to the discovery of rich silver and base-metal properties and the development of a considerable mining activity. The north-south position of the mountain ranges and intervening valleys and the location of the mineral areas in close proximity to the American boundary made the locality much more readily accessible to American territory and to American water and rail communications than to Canadian. Base-metal extraction required smelting which posed the problem of securing adequate supplies of coking coal. Smelters were already located at the American coast and in the inland states. American railways were built northward into the region and the ores moved by waterway and over these railways to the American smelting centres. The whole area could readily have become a hinterland to the north-western states.

Such a development would, however, have constituted a major breach in the National Policy which required that economic development in Canadian territory should be integrated into the Canadian economy rather than the American. Specifically the Canadian Pacific Railway was vitally interested in assuring <sup>that</sup> the supply and <sup>that</sup> the outward movement of the produce of this region should move over Canadian Pacific lines instead of being drawn southward to move over American transcontinental railways.



- 19186 -

Dr. Britnell

As early as 1889, the C.P.R. was impressed with the importance of diversity of traffic and of territory for the assurance of their earnings position. The Company's Annual Report for that year stated in part:

"While the results of the harvest will always be a matter of great importance as affecting the earnings of the railway, the past year has shewn that it is already comparatively independent of the crops of any one Province or any one season. This is in part due to the vast extent and great diversity in the character of the territory covered by the lines of the Company,.....in part to the development of mining and other industries not affected by local causes..."(4)

At the same time the C.P.R. was specifically interested in the mineral developments taking place in the Kootenay and Columbia Valleys. There were two problems, the first to improve the transportation facilities within the region, and the second to link the region with the main line of the Canadian transcontinental railway. Local transportation required<sup>the</sup>/linking of the Columbia and the Kootenay Valley by rail. As for the link between the region and the C.P.R. main line, this could be effected by joining the Arrow Lakes to the transcontinental by a short, north-south branch line, or by building westward from a point on the main line on the plains, through the Crow's Nest Pass to the Kootenay mining territories.

From 1889 to 1896 the C.P.R. was active in securing control of local transportation within the Kootenay-Columbia territory and in establishing rail

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(4) Canadian Pacific Railway, Annual Report, <sup>for the year</sup> 1889, pp.12-13.





connections between their main line and the Upper Arrow Lake. The Annual Report of the Company for 1889 contains the following statement:

"To prevent the invasion, by foreign lines, of the Kootenay District, in British Columbia--a district rich in precious metals and other natural resources--your directors have secured <sup>the</sup> control of the charter of the Columbia and Kootenay Railway Company, and agreed with the Provincial Government that the railway shall be built, about thirty miles in length, during the present season, to connect the navigation waters of the Kootenay Lake with those of the Columbia River thus opening a line of steamboat and railway communications of more than 250 miles...." (5)

To assure control of the steamboat portions of this route the C.P.R. in 1890 leased for 999 years the Columbia and Kootenay River Navigation Company. (6) In 1893 the Company leased the Nakusp and Slocan Railway which connected the Upper Arrow Lake at Nakusp <sup>with the</sup> Slocan mining district. (7) Between 1893 and 1896 a branch was built from the main line of the C.P.R. at Revelstoke to Arrohead on the Upper Arrow Lake. (8) Over the same years the Company constructed and acquired various short lines to serve the mining area more effectively.

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(5) Ibid., pp. 18

(6) Innis, H.A., A History of the Canadian Pacific Railway, (Toronto, 1923) P. 141.

(7) Ibid., pp. 141-2

(8) Ibid.



- 19188 -

Dr. Britnell

Meanwhile a variety of factors pointed to the desirability of<sup>a</sup> rail line linking the Kootenay with the main line of the C.P.R. by way of Crow's Nest Pass. In the first place, such a line would give an all-rail entry to the region from Canadian territory while the link at Revelstoke was rail-lake-and-rail, with the resultant necessity for trans-shipments. Second, great resources of coking coal were found at the Crow's Nest Pass. Third, rail connections were already constructed from the Prairies toward the Crow's Nest Pass in a line built in 1885 from Dunmore, Alberta, to Lethbridge for the development of coal properties in the Lethbridge region. In 1892 the Dominion Government made statutory provision for the extension of this line through the Crow's Nest Pass to Hope, British Columbia. The C.P.R. proposed the absorption and extension of this line. The Annual Report of 1892 contains the following statement:

"Negotiations are pending with the Alberta Railway and Coal Company for the lease and subsequent purchase of that Company's line extending from Dunmore to the coal mines at Lethbridge, 109 miles. Your authority will be asked to lease the line in question at a rental of 40 per cent of its gross earnings on its being brought to your Company's standard, and to purchase it on or before December 31st 1897, at the rate of \$9,000 per mile. This line will be necessary to your Company in the event of the construction of a line through Crow's Nest Pass, and in any case it will be quite self supporting." (9)

The lease and option were entered into on June 1, 1893.

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(9) Canadian Pacific Railway, Annual Report,<sup>for the year</sup> 1892, p. 12.



By 1896, therefore, the Canadian Pacific Railway had contemplated the construction of the Crow's Nest Pass Railway for several years. Its construction could not be postponed indefinitely. In 1896, the directors of the Company reported:

"But even with these important additions to its facilities for handling the traffic of the mining districts, your Company will continue at disadvantage in competing with the American lines (which have already reached Nelson, Rossland and other important centres in these districts) until it shall have direct railway connections of its own. Until then the greater part of the mining traffic will be beyond its reach, and will continue to be as at present, carried by the American lines southward.

Your directors are strongly of the opinion that any delay in securing your interests in that direction will be extremely dangerous--that unless your Company occupies the ground others will, the demand for shipping and travelling facilities being most urgent. The directors feel that they cannot too strongly urge the immediate construction of a line from Lethbridge to a connection with your Columbia & Kootenay Railway at Nelson, a distance of 325 miles, and anticipating your approval they have already taken steps towards commencement of the work on the opening of spring." (10)

The same Annual Report of the C.P.R. (1896) carries the first reference made in such reports to the possibility of government assistance in the construction of the Crow's

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(10) Canadian Pacific Railway, Annual Report, for fiscal year ending December 31, 1896, p. 10





Nest Pass line. The reference appears in the following words: "The interests of the country at large are so much concerned in this question (of a Crow's Nest Pass Railway) that your Directors confidently expect reasonable assistance at the hands of the Dominion Government." (11)

It is thus clear that the Canadian Pacific Railway intended the construction of the Crow's Nest Pass line for several years before it was finally constructed and before there was clear assurance and perhaps even consideration of a government subsidy. Though construction might have been delayed without a subsidy, the construction of the line would nevertheless have taken place. The Company no doubt welcomed the subsidy and the Government freely offered it in order to achieve certain specific purposes which will be dealt with below.

When in 1897 the Liberals introduced into the House the detailed proposals for a subsidy to the Canadian Pacific Railway for the construction of the Crow's Nest Pass Line, the Opposition could object to details but could not oppose the main principle. Sir Charles Tupper's Government had, in fact, in the last session before the general election of 1896 introduced proposals for a Crow's Nest Pass subsidy to the C.P.R. The Conservative proposals --tabled in the House but apparently not debated--had been for a Federal subsidy of \$5,000 and a loan of \$20,000 per mile of the proposed line. (12) When the Liberal Government set the subsidy at \$11,000 per mile with no additional loan

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(11) Ibid. pp. 10-11.

(12) See Canada, Debates of the House of Commons, 1897, Statement of Sir Charles Tupper, p. 4530



provision the opportunity arose to debate the relative generosity of the respective sets of proposals and to attempt to justify the one or the other depending upon political affiliation. A few members suggested in the Debates that the Conservative offer of a \$5,000 subsidy and loan of \$20,000 per mile was more generous than the Liberal offer of \$11,000 . , subsidy per mile since the loan would probably not be repaid in any case. The consensus of opinion was, however, that the Liberal offer was more generous to the railway and more onerous to the Government, and therefore required to be defended.

The defence of the Liberal offer was made at length by the Minister of Railways and Canals (Mr. Blair) and the Minister of Trade and Commerce (Sir Richard Cartwright). One curious element in this defence was provided by Mr. Blair who insisted, on the one hand, that the Agreement was the best possible one to which the Government could secure C.P.R. assent, while, on the other hand, he informed the House that he did not believe the Company when its officials made the statement that the Company would build the Crow's Nest Pass line even without ~~gover~~ government aid. On this point he made the following statement;



"I know that there has been the opinion expressed that possibly the Canadian Pacific Railway would have been able, without assistance at all from the Government, to carry out that undertaking successfully. I know that in the report of a meeting of the shareholders of that Company, which was held two months ago, the statement appeared that if the Government did not assist the Canadian Pacific Railway they would take hold of the work themselves without assistance. But I believe that statement was not so much <sup>the</sup> declaration of a fact within the knowledge of the Company itself as a statement put forward perhaps for the purpose of creating an impression for other ends, it may be upon public opinion or the Government of the country, and not that the company was in a position to take up the very large outlay involved by the construction of the line; because I believe that neither the Canadian Pacific Railway nor any other company at this time is so well situated that it would be able, without our aid, to construct the work...." (13)

Both Mr. Blair and Sir Richard Cartwright accepted the view that the Liberal subsidy offer was more generous to the Canadian Pacific Railway than the Conservative offer had been. Their entire justification was, however, that the Conservatives had proposed to exact no condition whatsoever





from the railway in exchange for the subsidy and loan, (14) while the Liberal Government, although offering a larger subsidy, were coupling their offer with the exaction of conditions concerning the rates of the Canadian Pacific Railway, conditions which would be of the utmost importance to the nation and to its various parts. Mr. Blair, particularly, attacked the earlier subsidy offer because, he argued, it was put forward:

"-without condition, without stipulation, without seeking to secure from the corporation to which that loan was made any remission of any of the terms and conditions under which they were operating their railway system in Canada--without a single attempt to secure any concessions in the interest of trade, in the interest of the people of the western country, in the interest of those who have been complaining of the incubus which the operation of <sup>that great</sup> railway imposed upon the country." (15)

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(14) This was readily admitted by the Conservative leader, Sir Charles Tupper. He said, describing the proposals of his Government when in office: "That was an absolute subsidy without any consideration whatever except the prompt construction of the road, and I attach<sup>ed</sup> the most vital importance to the prompt construction of the road."

Canada, Debates of the House of Commons, 1897, p. 4536.

(15) Ibid., p. 5347.



Speaking of the conditions exacted from the Canadian Pacific Railway by the Agreement under discussion, Mr. Blair said in part:-

"The committee will have noticed that we have sought to ensure the country a large measure of relief from the rates which have obtained since the Canadian Pacific Railway was started. We have imposed conditions upon the company which are very largely restrictive of their present powers. We have embraced in one of the sub-clauses of these resolutions a considerable list of articles which go into very large consumption among the people of the western provinces, and we have secured an agreement on the part of the Canadian Pacific Railway that very substantial reductions will be made upon the existing rates. We have also received the consent, on their part, that the rates upon all goods -- (shipped into or out of British Columbia over the Crow's Nest Pass line) -- are to be subject to the control and supervision of the Railway Committee of the Privy Council as is the case with other railway companies in Canada. To the extent of the shipment of goods from any part of and the shipment of goods from any part of British Columbia Canada to British Columbia/traversed by this line, to any part of Canada, there has been secured in the contract between the Canadian Pacific Railway and the Government, a rescission of that existing ten per cent. clause". (16)



Sir Richard Cartwright was at least as emphatic as the Minister of Railways and Canals in stressing the rate concessions which were to be made by the Canadian Pacific Railway in return for the Crow's Nest subsidies.

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In contrasting the Conservative and the Liberal subsidy proposals he summed up the matter concisely:

" Now the difference between the proposals is practically that we give, if you choose so to call it, some \$5,000 or \$6,000 per mile to the Canadian Pacific Railway for constructing this line, and we are paying them a further sum of \$5,000 or \$6,000 in return for valuable privileges to the whole North-west and eastern Canada as well<sup>(17)</sup>"

The above statement by the Minister not only indicates the contrast between the Liberal and Conservative proposals but also makes clear the belief of the Government that the Crow's Nest Pass Agreement would work to the advantage of all parts of Canada, the East <sup>as well as</sup> the West.

Since the Crow's Nest Pass subsidy proposals of 1897 were embodied in an agreement, we may attempt to determine, from the discussions relating to the matter, the advantages which the respective contracting parties anticipated from the implementation of the agreement.

Summarizing briefly, the evidence suggests that the Federal Government passed the Crow's Nest Pass Act and entered into the corresponding Agreement with the Canadian

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(17)

Ibid, p. 4541.



Pacific Railway in order to accomplish the following objectives: (1) the more rapid development of the highly promising mining area of southern British Columbia, (2) the effective integration of this area into the Canadian economy in defiance of geographic facts and despite American designs, (3) the enlargement of the prairie and inter-mountain markets for eastern manufacturers through the provision of lower freight rates on the western movement of certain important products, (4) the stimulation of agricultural settlement and general economic expansion in the Prairie Provinces by means of the statutory assurance of lower grain rates and lower rates on the inward movement of capital equipment, and (5) the acceptance by the Canadian Pacific Railway of the principle of governmental rate control in the national interest.

To the Canadian Pacific Railway the Crow's Nest Pass Agreement offered at least the following advantages:

- (1) The subsidy, more substantial than that offered by the previous Government, would pay, according to their own recorded estimates, upwards of one-half of the cost of the Crow's Nest line;
- (2) Construction of this line would entitle them to a large land subsidy indirectly from the Province of British Columbia;
- (3) The line would provide an all-rail link between their main line and the Kootenay region; and
- (4) it would thus be possible to forestall American economic occupation of that wealthy area.

A number of the advocates of the Crow's Nest Pass Agreement stressed the benefits which it would bring to the western wheat grower through lower freight rates.



Estimates were put forward that the reductions in grain rates alone would amount to a saving of from one-half to three-quarters of a million dollars per year. One member (Mr. Rutherford -- the Member for McDonald, Manitoba, and later a member of the Board of Transport Commissioners) calculated the prospective results in terms of the first twenty years. He said:-

"Taking the present contract, the settlers of Manitoba and the North-West territories will receive at the least calculation -- even though they do not increase in number, and even though they do not produce more wheat in that country during the next twenty years than they do now produce -- the people of that country will have a gross profit of \$15,000,000, in twenty years. There is no doubt that the reduction in the freight rates is going to be the means of saving to the people of Manitoba and the North-West of at least \$750,000 a year....." (18)

I might say that the grammar is the member's.

The twenty-year term was doubtless chosen by the member quoted above purely for illustrative purposes. In retrospect, no other illustration could have been so ironical. As events developed, throughout almost the entire interval of the first twenty years of the Crow's Nest Pass Agreement, competition, agreements and voluntary reductions brought and held railway rates in western Canada below the Crow's Nest Pass ceiling. During that

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(18) Ibid., p. 4570.





time the Agreement was ineffective in holding freight rates down or in providing corresponding benefits to western farmers. The circumstances can be outlined briefly.

The Crow's Nest Pass Agreement provided that the reductions in grain rates were to be put into effect over a two-year period, and they were fully established by

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- 19198 -

Dr. Britnell

September 1, 1899. In January, 1902, the Manitoba Government, acting within the terms of the Manitoba Agreement, ordered reductions in grain rates on the Canadian Northern Railway in Manitoba. The reduction brought grain rates 4 cents (later reduced to 3 cents) below the Crow's nest level, and reduced rates on other commodities by 15 per cent. Competitively the Canadian Pacific met these rates and subsequently reduced rail rates in Saskatchewan and Alberta by 7-1/2 per cent.

The reduction in railway rates and the multiplication of rail facilities in western Canada after the turn of the century was accompanied by tremendous expansion in settlement and in agricultural production on the plains. Among the various forces which contributed toward this expansion it is impossible to assign relative importance. The reduction in transportation costs undoubtedly contributed in substantial measure. The dividend record of the Canadian Pacific Railway clearly indicates that the Company shared in generous and increasing measure in the prosperity of the Canadian economy after 1900.

After 1902 it was not until late in the first world war that any serious question arose as to the effectiveness of the Crow's Nest Pass Agreement in limiting an increase in railway rates. In 1917, the Board of Railway Commissioners heard an application of the railway companies for a recommendation to the Governor-in-Council under the War Measures Act for a general advance of 15 percent in freight and passenger rates. The railways contended that increased costs made it impossible for them to render adequate service on the basis of existing rates. Observing that to grant the increase asked for would, in western Canada, run counter to the Manitoba Agreement and would



raise rates on grain and other specified products to a level above that permitted by the Crow's Nest Agreement, the Board was forced to decide whether or not it was bound by these Agreements. The Board held that it was not bound by the Manitoba Agreement but was bound by the Crow's Nest Agreement. It accordingly granted the 15 per cent increase subject to the limits set by the <sup>Crow's Nest</sup> Agreement. In view of appeals which were brought against the Board's award, the effective date for the new rates on wheat was set at June 1, 1918, and on other commodities at March 15, 1918.

Meanwhile the Federal Government ordered (P.C. 1768) wage increases for Canadian railway workers in recognition of the McAdoo Award in the United States, the wage increases to be effective August 1, 1918. In the same Order the Board of Railway Commissioners was directed to prepare a new schedule of all freight rates. The new schedule was established by Order in Council (P.C. 1863) effective August 12, 1918. The increase provided for in the new schedule was, generally speaking, 25 per cent, with the proviso that in territory west of Fort William this figure should include the previously granted increase while east of Fort William it was to be additional to the 15 per cent increase.

The new grain rates established as of August 12, 1918, were above the Crow's Nest Agreement level. The suspension of this Agreement, thus first effected by Order in Council, was ratified by Amendment to the Railway Act in 1919 (Section 325, Sub-section 5) the suspension to continue for three additional years -- that is to July 7, 1922.

In the period from January, 1902 to August, 1918, the Crow's Nest Pass Agreement effectively held down western grain rates only during the short interval from June 1,





1918 to August 12, 1918.

Table 1 illustrates the changes in western grain rates since 1897.

TABLE 1

GRAIN RATES TO FORT WILLIAM (a)

(in cents per 100 pounds with  
index numbers based on Crow's  
Nest Pass Agreement Rates - 100)

Date of Period	<u>From W'peg.</u>		<u>From Regina</u>		<u>From Calgary</u>	
	Rate	Index	Rate	Index	Rate	Index
1897 (b)	14	100.0	20	100.0	26	100.0
Jan. 1902-June, 1918	10	71.4	18	90.0	24	92.3
June 1918-Aug., 1918	12	85.7	20	100.0	26	100.0
Aug. 1918-Sept., 1920	14	100.0	24	120.0	30	115.4
Sept. 1920-Jan., 1921	19	135.7	32.5	162.5	40.5	155.8
Jan. 1921-Dec., 1921	18	128.6	31	155.0	39	150.0
Dec. 1921-July, 1922	17	121.4	29	145.0	36	138.5
After July, 1922	14	100.0	20	100.0	26	100.0

(a) Adapted from Table in Index Numbers of Railway Freight Rates, 1913-1936; (Ottawa, 1938), p. 9.

(b) Crow's Nest pass Agreement Rates, fully effective by Sept. 1, 1899.

The suspension of the Crow's Nest Pass Agreement in 1918 was effected under authority of the War Measures Act and was justified before the Parliament and people of Canada as a temporary measure designed to meet an emergency condition. Its suspension under these circumstances could in no way be regarded as based on a reasoned decision that the terms of



the Agreement had been fully accomplished by the contracting parties or that those terms were no longer in accord with realities. Nevertheless, in 1922, as the time approached for the expiration of the suspension of the Agreement, the Canadian Pacific Railway made every effort to have the Agreement abrogated entirely, or, at the least, to have its suspension prolonged.

There would be little purpose in reviewing in detail the Parliamentary and Special Committee discussions which preceded the restoration of the Crow's Nest Pass Agreement. These discussions did, however, for the first time provide an opportunity for western members and farm leaders to record their views as to the importance of Crow's Nest Pass Rates. Some at least of the western representatives recalled that the Crow's Nest Pass rates were put into effect by the Canadian Pacific Railway in fulfilment of its part of an agreement for which it had received full consideration from the people of Canada. It was also pointed out that the rate commitment of the railway would be useless if it were to be waived at any time that it proved inconvenient to the railway. Generally speaking, however, the western representations were concerned with stressing the extreme importance of Crow's Nest rates to the economic welfare of the highly-specialized, wheat-growing prairie economy. The West had developed on the basis of Crow's Nest rates and in reliance on their statutory stability. The Crow's Nest Pass Agreement was referred to as the western settler's "bill of rights". The very general alarm of the residents of the Prairie Provinces was expressed at the suggestion that the Agreement should be abrogated or that its suspension should be further extended.



In June, 1922, the Railway Act of 1919 was amended in regard to the provision for the suspension of the Crow's Nest Pass Agreement. The amendment provided that Crow's Nest Pass rates should be restored on grain and flour as of July 6, 1922, but that the suspension of the Agreement as applied to westbound traffic should continue until July, 1923, and for an additional year at the option of the Governor-in-Council. The extension was authorized in 1923 but in 1924 the railways were directed to restore Crow's Nest Pass rates on westbound traffic. Then followed an extremely tumultuous period in which the railways adopted delaying tactics, arguments were heard and orders were made by the Board of Railway Commissioners, appeals were heard and judgments were given by the Supreme Court. Finally, Parliament intervened and amended the Railway Act so as to cancel Crow's Nest rates on all commodities other than grain and flour. This amendment was effective as of July 23, 1925, and since that date the Crow's Nest Pass limitation on rates has not existed except for grain and flour.

A frequent complaint of the railways concerning Crow's Nest Pass rates is that, in the course of time, they have been extended geographically to cover a great deal of traffic which was not contemplated in the original agreement. The main problem in this regard concerned the rates which should be applied on Crow's Nest commodities from and to shipping points which did not exist in 1897 on lines which had not been constructed in 1897. Both the Canadian Pacific and the Canadian National Railways were involved in this matter, in that by far the greater proportion of their western lines <sup>of both railways</sup> was constructed after the Crow's Nest Pass Agreement was made. Competition and the necessity of





avoiding discrimination originally led to the extension of Crow's Nest Pass rates to the new shipping points. Eventually, in 1925 Parliament enacted the present Section 325 (5) and (6) of the Railway Act (Statutes of Canada 1925, 15-16 Geo. V., chap. 52) which in effect made the extension compulsory for grain and flour. In 1927, by General Order No. 448, the Board of Railway Commissioners specifically directed the Canadian Pacific and all other railways to adjust rates on grain and flour from all western points to Fort William to the Crow's Nest Pass level. In the same year (1927) the Board directed that rates on grain and flour moving through Pacific coast ports for export should be reduced to the Crow's Nest Pass level.

It is true, therefore, that the Crow's Nest Pass structure of rates has been extended geographically in so far as grain and flour are concerned. It is also true, however, as pointed out above, that since July, 1925, the Crow's Nest Pass Agreement has ceased to exist for commodities other than grain and flour. The result is that since that the railways have been freed from the statutory limitations of the original Agreement which placed a ceiling on rates on a substantial list of capital-goods items moving into the Prairie region from Eastern Canada. This is a considerable but incalculable concession to the Railways. We repeat, therefore, and respectfully emphasize at this point, the fact that the alterations which have been made in the Crow's <sup>Nest Pass</sup> Agreement over the years have by no means all been in the direction of placing additional burdens on the railways.

The Crow's Nest Pass rates on grain and flour remained in effect throughout the nineteen-thirties, as they do today. Throughout that calamitous decade the sorely



pressed producers in the Prairie Provinces made no serious attempt to force the Railways to establish grain rates below the maximum allowed by the Crow's Nest <sup>Pass</sup> Agreement. The same producers reject with all possible emphasis those arguments which are now put forward in an attempt to demonstrate that the Crow's Nest Pass Agreement has attained its purposes and must be abandoned.

The Crow's Nest grain rates represent established national policy, the alteration of which would be ruinous to the wheat-growing areas. The Provinces of Alberta, Saskatchewan and Manitoba submit that the grain rates fixed by the Crow's Nest Pass Agreement constitute one of the basic conditions upon which the western agricultural economy was established and developed and which have enabled it to play ~~its~~ part in the economic life of the Dominion. The urgent national necessity for the promotion of settlement and western economic development induced the Government to enter into the Crow's Nest Pass Agreement. The rate concessions provided for in the Agreement were designed to assist in reducing the barrier which geography imposed between the producing plains and the markets of the world. The considerations which, at the turn of the century, gave rise to Parliamentary action with respect to grain rates are as valid today as then. In fact, experience has demonstrated and emphasized the importance of an additional relevant circumstance, the inherent instability of an economy so dependent on the vagaries of nature.

Stability of transportation costs at the lowest possible level is absolutely essential to the survival of the wheat economy. This at one and the same time imposes the necessity for the continuation of Crow's Nest



- 19205 -

Dr. Britnell

grain rates and for the protection of their integrity by Statute. The continued ability of the Prairie Provinces to play their part in the Canadian economy is dependent upon the prosperity of the wheat producers. Stable grain rates at a minimum cost are essential to that prosperity.

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APPENDIX

60-61 Victoria, Chapter 5.

AN ACT TO AUTHORIZE A SUBSIDY FOR A RAILWAY  
THROUGH THE CROW'S NEST PASS

(Assented to 29th June, 1897).

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:-

1. Subject to the conditions hereinafter mentioned, the Governor in Council may grant to the Canadian Pacific Railway Company a subsidy towards the construction of a railway from Lethbridge, in the district of Alberta, through the Crow's Nest Pass to Nelson, in the province of British Columbia (which railway is hereinafter called "the Crow's Nest Line,") to the extent of eleven thousand dollars per mile thereof, and not exceeding in the whole the sum of three million six hundred and thirty thousand dollars, payable by instalments on the completion of each of the several sections of the said railway of the length respectively of not less than ten miles, and the remainder on the completion of the whole of the said railway; provided that an agreement between the Government and the Company is first entered into in such form as the Governor in Council thinks fit, containing covenants to the following effect, that is to say:-

On the part of the Company:

(a) That the Company will construct or cause to be constructed, the said railway upon such route and according to such descriptions and specifications and within such time or times as are provided for in the said agreement, and, when completed, will operate the said railway for ever;

(b) That the said line of railway shall be constructed through the town of Macleod, and a station shall be established therein, unless the Governor in Council is satisfied



by the Company that there is good cause for constructing the railway outside the limits of the said town, in which case the said line of railway shall be located and a station established at a distance not greater than five hundred yards from the limits of the said town;

(c.) That so soon as the said railway is opened for traffic to Kootenay Lake, the local rates and tolls on the railway and on any other railway used in connection therewith and now or hereafter owned or leased by or operated on account of the Company south of the Company's main line in British Columbia, as well as the rates and tolls between any point on any such line or lines of railway and any point on the main line of the Company throughout Canada, or any other railway owned or leased by or operated on account of the Company, including its lines of steamers in British Columbia, shall be first approved by the Governor in Council or by a Railway Commission, if and when such Commission is established by law, and shall at all times thereafter and from time to time be subject to revision and control in the manner aforesaid;

(d.) That a reduction shall be made in the general rates and tolls of the Company as now charged, or as contained in its present freight tariff, whichever rates are now the lowest, for carloads or otherwise, upon the classes of merchandise hereinafter mentioned, westbound, from and including Fort William and all points east of Fort William on the Company's railway to all points west of Fort William on the Company's main line, or on any line of railway throughout Canada owned or leased by or operated on account of the Company, whether the shipment is by all rail line or by lake and rail, such reduction to be to the extent of the following percentages respectively, namely:

Upon all green and fresh fruits, 33-1/3 per cent;



Coal oil, 20 per cent;

Cordage and binder twine, 10 per cent;

Agricultural implements of all kinds, set up or in parts, 10 per cent;

Iron, including bar, band, Canada plates, galvanized, sheet, pipe, pipe-fittings, nails, spikes and horse shoes, 10 per cent;

All kinds of wire, 10 per cent;

Window glass, 10 per cent ;

All kinds of wire, 10 per cent;

Window glass, 10 per cent;

Paper for building and roofing purposes, 10 per cent;

Roofing felt, box and packing, 10 per cent;

Paints of all kinds and oils, 10 per cent;

Live stock, 10 per cent;

Wooden ware, 10 per cent;

Household furniture, 10 per cent;

And that no higher rates than such reduced rates or tolls shall be hereafter charged by the Company upon any such merchandise carried by the Company between the points aforesaid; such reductions to take effect on or before the first of January, one thousand eight hundred and ninety-eight;

(e.) That there shall be a reduction in the Company's present rates and tolls on grain and flour from all points on its main line, branches, or connections, west of Fort William to Fort William and Port Arthur and all points east, of three cents per one hundred pounds, to take effect in the following manner:- One and one-half cent per one hundred pounds on or before the first day of September, one thousand eight hundred and ninety-eight, and an additional one and one-half cent per one hundred pounds on or before the first day of September, one thousand eight hundred and ninety-nine;





and that no higher rates than such reduced rates or tolls shall be charged after the dates mentioned on such merchandise from the points aforesaid;

(f.) That the Railway Committee of the Privy Council may grant running powers over the said line of railway and all its branches and connections, or any portions thereof, and all lines of railway now or hereafter owned or leased by or operated on account of the Company in British Columbia south of the Company's main line of railway, and the necessary use of its tracks, stations and station grounds, to any other railway company applying for such grant upon such terms as such Committee may fix and determine, and according to the provisions of The Railway Act and of such other general Acts relating to railways as are from time to time passed by Parliament; but nothing herein shall be held to imply that such running powers might not be so granted without the special provision herein contained;

(g.) That the said railway, when constructed, together with that portion of the Company's railway from Dunmore to Lethbridge, and all lines of railway, branches, connections and extensions in British Columbia south of the main line of the Company in British Columbia shall be subject to the provisions of The Railway Act, and of such other general Acts relating to railways as are from time to time passed by Parliament;

(h.) That if the Company or any other company with whom it shall have any arrangement on the subject shall, by constructing the said railway or any part of it, as stipulated for in the said agreement, become entitled to and shall get any land as a subsidy from the Government of British Columbia, then such lands, excepting therefrom those which in the opinion of the Director of the Geological



Survey of Canada (expressed in writing) are coal-bearing lands, shall be disposed of by the Company or by such other company to the public according to regulations and at prices not exceeding these prescribed from time to time by the Governor in Council, having regard to the then existing provincial regulations applicable thereto; the expression "lands" including all mineral and timber thereon which shall be disposed of as aforesaid, either with or without the land, as the Governor in Council may direct;

(1.) That if the Company or any other company with whom it shall have any arrangement on the subject shall, by constructing the said railway or any part of it as stipulated for in the said agreement, become entitled to and shall get any lands as a subsidy from the Government of British Columbia which in the opinion of the Director of the Geological Survey of Canada (expressed in writing) are coal-bearing lands, then the Company will cause to be conveyed to the Crown, in the interest of Canada, a portion thereof to the extent of fifty thousand acres, the same to be of equal value per acre as coal lands with the residue of such lands. The said fifty thousand acres to be selected by the Government in such fair and equitable manner as may be determined by the Governor in Council, and to be thereafter held or disposed of or otherwise dealt with by the Government as it may think fit on such conditions, if any, as may be prescribed by the Governor in Council, for the purpose of securing a sufficient and suitable supply of coal to the public at reasonable prices, not exceeding two dollars per ton of two thousand pounds free on board cars at the mines.

And on the part of the Government, to pay the said subsidy by instalments as aforesaid.

2. The Company shall be bound to carry out in all respects the said agreement, and may do whatever is necessary



for that purpose.

3. In order to facilitate such financial arrangements as will enable the Company to complete the railway as aforesaid without delay and to acquire and consolidate with it the railway from Dunmore to Lethbridge, hereinafter called "the Alberta Branch," which, under the authority of chapter thirty-eight of the statutes of 1893, it now operates as lessee, and is under covenant to purchase, the Company may issue bonds which will be a first lien and charge and be secured exclusively upon the said Alberta Branch and Crow's Nest line together in the same way and with the same effect as if both the said pieces of railway to be so consolidated were being built by the Company as one branch of its railway within the meaning of section one of chapter fifty-one of the statutes of 1888, and that section shall apply accordingly, such first lien to be subject to the payment of the purchase money of the Alberta Branch, as provided for in the said covenant to purchase.





MR. MacPHERSON: Q. Dr. Britnell, that is Part I of the joint submission of the provinces. You are familiar with Part II as well? A. Yes.

Q. And you are in agreement with Part II of the submissions? A. Yes.

Q. You have read Mr. Armstrong's evidence on the question of who pays the freight?

A. Yes.

Q. Has reading Mr. Armstrong's evidence led you to change the opinions you expressed on this question when you appeared before the Commission last November?

A. No. In view of what has been said, however, I should like to extend my analysis slightly.

Q. Please do so, Dr. Britnell.

A. It can be plainly seen that a full answer to the question "Who pays the freight?" involves a great deal of very complicated analysis. A lot has already been said in the hearings about elasticity of supply and elasticity of demand and about buyers' and sellers' markets. The Commission has also been informed in considerable specific detail about what happened to the prices of wheat in Chicago on a certain particular trading day after the freight rates on wheat were changed in the United States.

Our position is that the most important distinction to be made at the beginning of an analysis of this sort is between long-run conditions and short-run conditions, between the long-run effects of freight-rate changes and the short-run effects of freight-rate changes.



Our position further is that the long-run effects of freight rates are the important ones to be considered by the Commission.

The concept of elasticity of supply and demand, and the distinction between buyers' and sellers' markets are admittedly very useful devices for analysing short-run economic changes. But they are much less useful for the analysis of long-run situations. Any attempt to prove or even to illustrate the effects of changes in freight rates on the price of wheat by the market quotations of a single day can scarcely be taken seriously. After all one swallow doesn't make a summer.

The level of freight rates can never be a matter of indifference to the growers of wheat in western Canada. To sell wheat in the world markets their costs of production including freight must, taking one year with another, be low enough to allow them to sell at prices which consumers will pay. At any point of time the price which the individual grower will receive for his wheat will tend to equal the price in the overseas market less the freight and handling charges which must be paid to get the wheat from his farm to the overseas market. The further he is away from that market, generally speaking, the more will his net returns be reduced by freight rates.

Whatever the level of freight rates may be, therefore, the freight burden has a differential effect on producers depending on their distance from the market. If rates are raised, the additional burden may be bearable for many producers, but for those on the margin it must mean eventually the difference between staying in production and going out of production. If rates are raised substantially, great numbers of growers may be driven out of the field,



supplies will be curtailed and the prices which the consumer will have to pay will be driven up.

It can thus be seen that producers can pass the burden of increased freight rates on to the consumer only by going into bankruptcy or by getting out of the production of wheat. There may be some persons who think that the Canadian economy would be better off without several or many thousands of its wheat growers. I cannot subscribe to this view.

MR. MacPHERSON: Thank you, Dr. Britnell.

COMMISSIONER ANGUS: Dr. Britnell, arising out of the historical analysis, did you find that in the negotiations of 1897 and the Parliamentary Debates, that consideration was given to the possibility of financing a war by inflation or resorting to inflation for any other purpose?

A. No.

Q. Were the agreements made on the assumption of a fairly stable currency?

A. I think they probably were.

Q. And then when the inflation occurred, were the adjustments made by legislation to substitute some other arrangement for the earlier one, in order to take account of that inflation?

A. Yes, I think that was undoubtedly a consideration which led Parliament in 1925 to cancel the rates on products moving west. I certainly think that was a consideration affecting their decision at that time.

Q. And when that legislation was passed, was there any consideration that another war might lead to inflation either during it or after it?

A. I suspect that by that time the rather pleasant 19th century assumption that there was an indefinite progression or an indefinite progress that we could look





19th century assumption that there was an indefinite progression or an indefinite progress that we could look forward to, had been pretty well dissipated; and that people were more used to thinking in terms of inflation and deflation.

Q. Were they still thinking in terms of the gold standard in this consideration?

A. Well, of course, Mr. Churchill did bring England back on to the gold standard and almost ruined her in the process; but at the same time I think that we are all thinking in terms of a restoration of the gold standard.

Q. And then do you think that the problem before us to-day becomes substantially this? When price control was relaxed, should this controlled price, controlled by the legislation of 1925, be released from the control too, or not?

A. No, I don't think so, for one reason partly because national policy is involved, and some other method of relief, if relief is desirable or required, should be found.

Q. But that is an argument as to which we should do?

A. Yes.

Q. But is the problem whether this should go in with other crises in, shall we say, the post-war inflation in which we are living, or be kept out of it for some substantial reason?

A. I would be inclined to the latter view that it should be kept out of it.

Q. But that is the problem?

A. Oh, yes.

THE CHAIRMAN: You talk of some relief being desirable. Do you think that any relief is desirable in this case?

A. I cannot see that any case has been made for



relief. I am extremely sceptical (and this is only a personal opinion) that any relief is required in this particular direction.

Q. I asked you that because you have studied it very thoroughly, as we have seen.

A. Yes.

Q. And that is the result of your study?

A. Yes.

Q. You cannot see any requirement of relief to the railways?

A. No, sir, not in this matter.

EXAMINATION BY MR. COVERT:

Q. Professor Britnell, I gathered from the fact that you deal with Part 1, that you really wanted to confine your views of the presentation of the historical aspect of this, is that right?

A. Yes, I think that would be much more satisfactory for all concerned.

Q. Because what I did want to take up was, first, what it seemed to me, were the important things; and I want to make sure that if you have the answers to any of these things, that I don't let you away before they are answered. What I wanted to consider really was this, and this is apart from the historical aspect. First, as to the problem whether some other action should be taken to relieve the pressure that there could be on other rates by virtue of Parliamentary control. If your answer, however, were "Yes", if there could be protection through some restrictions being placed on the Board of Transport Commissioners with respect to their dealings with fixing rates on this particular commodity. Now, would you prefer that I leave



those things to someone else?

A. Oh, no, I am quite prepared to answer them. Perhaps if you could re-state them I will take them one by one without confusion.

Q. Now, I gather this, Doctor. You say that based on the history, these rates have become part of the national policy?

A. Yes.

Q. And would it be fair to say that you say the reasons for that national policy still exist?

A. At present existing, definitely.

Q. The national policy has not yet been carried out?

A. No, definitely not.

Q. The Western farmer still needs the protection of these rates?

A. Exactly.

Q. Now, they were changed once by Parliament?

A. Yes.

Q. And you say that Parliaments of course is free to change them again?

A. Yes.

Q. And your view is that they should be left with Parliament to change?

A. Yes.

Q. Now, it was an emergency that brought about the change before.

A. Yes.

Q. And you say, I take it, that Parliament is the one to determine that emergency?

A. Yes.

Q. And not a Board of Transport Commissioners





A. Definitely not.

Q. So in effect you say that Parliamentary control over these grain rates should 'never be taken away?

A. Quite.

Q. And you would go so far as to say never?

A. Never - well, never is a long time of course, but not in this generation.

Q. Not in this generation. Well then, would you go this far, sir, that if the price of wheat sky-rocketted, say, to five dollars a bushel, would you say still that there should be no change in rates?

A. Yes, I think we have, by suffering through the 1930's without protest, indicated that we are willing to take chances on getting back on the swings what we lose on the roundabouts, and that we should be allowed to take that in the, I am afraid, hypothetical case of wheat going up.

Q. Yes, but your point is that no matter what price the farmer is paid for wheat, that there should still be Parliamentary control?

A. Yes.

Q. And would you also say----

A. That it is not a function of price.

Q. And if the railway does have to pay a great deal more than they are being paid for hauling, if it costs them a great deal more, you say that nevertheless the rates should still be under Parliamentary control?

A. Yes.

Q. That the present rates should continue to exist?

A. Yes.

Q. And do you say that there should be any relief to the railways at all under those circumstances?

MR. MacPHERSON: My lord, there is just this point



that probably I may make clear now arising from the examination by Mr. Covert. Each of the provinces is putting a witness in the box, and it may be that there will be a difference of opinion in answer to this question and questions that will be leading from it. Dr. Britnell will be speaking on behalf of Saskatchewan. It is possible that Manitoba and Alberta might have different views, and I only wish to say that while the provinces are unanimous in the matter of the joint submission, that that was one reason why separate witnesses were put up: there might be a difference of opinion. I don't know whether one will develop or not on questions such as are being put now.

THE CHAIRMAN: You don't object to Dr. Britnell being examined?

MR MacPHERSON: No, no, no objection at all, but I am simply pointing out that he is giving evidence on behalf of Saskatchewan alone.

THE WITNESS: If the counsel had not made the point, I was going to preface my reply rather carefully by saying that I could speak on this subject only for the Government of Saskatchewan, and that, of course, it would be unreasonable not to provide some relief should the necessity for such relief be clearly and unambiguously presented and maintained.

(Page 19215 follows)



We would argue that since the railways represent one aspect of national policy and should be regarded as instruments of national policy, the proper and appropriate measure of relief should come through subsidy.

MR COVERT: Q. I just want to make that clear, and also to clear the record on this. When you say that, you are presenting Saskatchewan's view on that?

A. Exactly, yes.

Q. And you say that if it could be shown unequivocally that the railways were losing money on those rates, then you say that that would be a matter for subsidy by the Dominion Government; is that it?

A. I would perhaps qualify that slightly, in that I do not think the fact that they lose money in one year or two years or even three years is sufficient, that one would have to look -- and presumably the body deciding that would look -- at the history of the agreement from its inception, and attempt to draw up some sort of balance sheet. I would not think that Parliament in its infinite wisdom would tamper with the agreement unless they were satisfied that on balance the prospects were for the railways to continue to lose substantial sums of money through their operation.

Q. Wouldn't you think that they should use the same test that they used in the twenties?

A. I think they probably, with more experience behind them as to the effects of inflation and deflation, and the rapidity with which deflation can succeed inflation, might be well advised to go a little more cautiously than in 1925.

Q. I want to get this from you very clearly: You think that before Parliament should change them again they should look at what had happened from the point of view of





the railways' earnings on these rates from 1897 up till the time they propose to make the change?

A. Yes, and also prospective earnings.

Q. Future?

A. Future earnings -- not alone, let it be said, on the movement of wheat, but also the over-all earning position, since the producer of wheat is also a consumer of capital and other goods and is creating revenue for the railways there.

Q. Now, sir, would you say this, that the importance of these rates to the western economy is such that they deserve this special treatment?

A. Precisely.

Q. Doctor, do you know of any place in the world where there is accorded such treatment to any particular---

A. No. I have not made a very intensive survey or any real survey of world conditions.

Q. But you would have likely come across it?

A. I think so, yes. I think our position is in many respects peculiar.

Q. It is unique?

A. Unique, yes.

Q. But you say that it is of such importance that it should remain that way?

A. Yes.

Q. Now, would this be a matter that you would deal with, sir? You have probably examined the rates from the various locations in the west to Fort William, for example; you would have some idea of the average rate from the farm to Fort William?

A. Yes.

Q. Then there is another movement that the wheat must make to get to the world market, sometimes two?



A. Yes.

Q. Have you examined the rates from Fort William to the world market?

A. Yes.

Q. Now, those vary?

A. Yes.

Q. Greatly?

A. Quite considerably, yes; greatly in the case of ocean freight rates particularly.

Q. Is it your view that that portion of the cost of transportation is borne by the western farmer to the same extent as the rate from his farm to Fort William?

A. Oh, yes, but there is nothing the Government of Canada can do very materially in that field.

Q. But you say that he bears that portion of the transportation cost to the same extent that he bears the transportation cost from his farm to Fort William?

A. Oh, yes.

Q. Now, generally speaking is the cost from Fort William to the market a larger amount than from his farm to Fort William?

A. Yes.

Q. So that in his cost of transportation you have his cost from the farm to Fort William, which on the average I understand is about 20¢ per hundred pounds?

A. Yes.

Q. And then from Fort William to the market, have you any idea what the average of that would be?

A. It varies very tremendously. It is probably at the present time twice that.

THE CHAIRMAN: Q. How much?

A. Twice that. I have not looked at any recent figures.

MR COVERT: Q. Well, let us for the purposes of our



discussion just say that it is 40¢, so that the total is 60¢?

A. Yes.

Q. Then you are in this position, that you have a part of his total transportation cost, one third is fixed and rigid as long as the Parliamentary control is there, and then you have two thirds which varies a great deal?

A. Yes.

Q. Do you say that that is one reason why that 20¢ must remain fixed?

A. Yes.

Q. That is one reason?

A. Yes. It is much less important than the reason of national policy, I think.

Q. I think there were just two other questions that I had to ask you. I wonder if you would turn to page 6 of the printed brief; it is at the end of the first paragraph at the top of the page. You say:

"Functionally they began and continued as substantially similar institutions . . ."

A. Yes.

Q. That is, the Intercolonial and the Canadian Pacific?

A. Yes.

Q. Then you say:

" -- agencies of the state designed for the furtherance of the National Policy."

A. Yes.

Q. Now, I just wanted to know: Is that a conclusion of your own?

A. Oh, yes, very definitely. That is, that there was no ideology of private ownership versus public ownership came into the picture at all. They were instruments of national policy, and in the case of the Intercolonial it was





carried out by private ownership, in the case of the C.P.R. by a very peculiar mixture of the two.

THE CHAIRMAN: Q. You said in the case of the Intercolonial carried out by private ownership.

A. Public ownership -- I beg your pardon.

Q. Just to have the record right.

A. Yes, public ownership -- going too fast.

MR COVERT: Q. And you feel that both remain agencies of national policy today?

A. Yes.

Q. If that is so, would it not be your view that if they are carrying a particular product, especially one which involves such a large volume of traffic, at rates which are non-compensatory, the National Government should---

A. Yes.

Q. ---subsidize that, if that prove to be the case?

A. Yes.

Q. That is your view?

A. Yes.

Q. Then there was just one line on page 15 of your printed statement, in the first line of the last paragraph. You say:

"The Crow's Nest grain rates represent established national policy . . ."

Now, would you go so far as to say "and never changeable"?

A. Well, I think that is in the wisdom and discretion of Parliament to decide. I do not think any body short of Parliament should undertake that terrible responsibility.

Q. Now, you would say, I take it, that it should not be changed until such time as it can be said that the western farmer is on his feet, independent, and no matter what happens to the grain rates he can carry on?

A. Yes.



Q. You go that far?

A. Yes.

Q. And you say that Parliament must decide whether or not the western farmer is in that position?

A. Yes.

MR COVERT: That is all I have to ask, Mr. Chairman.

THE CHAIRMAN: Does anybody else wish to question Dr. Britnell?

MR COVERT: Have any of the provincial counsel any questions?

THE CHAIRMAN: Well, we will come back in five minutes or so.

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(Recess)

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CROSS-EXAMINED BY MR SINCLAIR:

Q. Dr. Britnell, I have a number of questions, and I am going to try to refer you closely to some of the statements made in your brief in the first part of my discussion with you, and explore them.

A. Yes. Is that the mimeographed brief?

Q. Yes, if you could have one handy. I take it from my friends from the provinces that only on the matter of the question of subsidies are you differentiating in your position as spokesman for Saskatchewan and as spokesman on behalf of all the provinces in connection with this brief?

A. So far as I know. There might be questions come up about which we have not consulted where I would have to qualify them.

Q. But you have had close consultation in connection with this brief? A. Yes; oh, very close, yes.

THE CHAIRMAN: Just a minute. You are spokesman for the Province of Saskatchewan? Is that right? That is what Mr.



Sinclair said.

MR SINCLAIR: I said spokesman for all the provinces in connection with---

THE CHAIRMAN: Well, a spokesman is somebody who says what a province wants.

MR SINCLAIR: That is right.

THE CHAIRMAN: Q. Is that the position?

A. Yes; I think I would go further, and say I am spokesman for the three prairie provinces, with the only exception I can think of offhand being the case which Mr. Sinclair has mentioned, the subsidy relief, on which I speak only for the Province of Saskatchewan.

Q. What I mean is, is what you are giving us evidence of your own ideas as an expert on those matters, or are you just saying what a certain province wants to have done?

A. I think there is a virtual identity there, sir.

Q. How can there be, if you may have different -- well, of course, if may be. What do I understand, then? That you are speaking here in so far as what you have read is concerned, as putting forward the views of three provinces? Is that it?

A. Yes.

Q. Their views?

A. Yes. They do happen, sir, to coincide exactly with my own views, because we were given a complete---

MR SINCLAIR: Q. Is that unusual, Dr. Britnell?

A. ---a complete hand. Oh, I don't think so.

Q. I take it, then, that---

THE CHAIRMAN: Q. Anything that you may say apart from what you have read is not necessarily the views of Manitoba or Alberta?

A. They are unless I qualify them, sir.

Q. Unless you qualify them?





A. Yes, unless I qualify them, sir.

THE CHAIRMAN: All right.

MR SINCLAIR: Q. Now, on page 1 you say:

"The rates in question are contractual rates, instituted and maintained in fulfilment of the terms of a voluntary agreement between freely contracting parties."

Do the provinces say the agreement of 1897 covers the movement of grain and flour to Pacific Coast ports for export?

A. No. That has been an extension by Parliament.

Q. They are not contending that the agreement in any way covered the movement of grain to Pacific Coast ports for export?

A. I do not see how that could be so, since it comes thirty years after.

Q. Your answer, then, is No?

A. Yes. I admit that that may be more of a legal question than of economics.

Q. Oh, I think it is pretty factual.

A. I think it is, yes.

Q. Your answer to that question of mine is that the provinces do not contend that the agreement of 1897 in any way covered the movement of grain and flour to the Pacific Coast ports for export?

A. That would be my answer.

Q. The answer is No?

A. Yes.

THE CHAIRMAN: Well, the agreement speaks for itself.

MR SINCLAIR: Yes; I am wanting to test the statement that I read.

Q. Do the provinces say that the agreement of 1897 applies to railway companies other than the Canadian Pacific?



A. Well, I cannot answer that precisely Yes or No. I think that so far as other railways are concerned, they were pretty well bound competitively down to 1925.

Q. Well, I will discuss that with you later. But in so far as the agreement itself is concerned, the provinces are not contending that there was any collateral agreement?

A. No.

Q. Or any matter of that kind that bound any railways---

A. No; there was an agreement with the C.P.R.

Q. And only bound the C.P.R.?

A. Yes.

MR MacPHERSON: The agreement speaks for itself.

MR SINCLAIR: I was just exploring to see if he had any thoughts in support of any other statement, or any thought or inference that it applied to any other railway.

THE WITNESS: No.

MR SINCLAIR: Q. Do the provinces say that the agreement of 1897 covered grain or flour shipped from points other than the points on lines of railway on the Canadian Pacific in existence at the time the agreement was made?

A. Well, I think in that case it is logical to assume that Parliament expected and the C.P.R. expected to build further lines of railway, and, since you could hardly have two structures of freight rates in the same area at the same time, in the minds of both contracting parties one could reasonably assume that they expected all branch lines to bear a very close relationship with the differentials of distance to come under the agreement.

Q. Then am I to take it from your answer that the position of the three western provinces in regard to that matter is the same as the contentions they put forward before the Supreme Court of Canada in 1925 and which were not found effective by the Court?



A. I am afraid I have not read the Supreme Court opinion in 1925 recently, to be sure that I could answer that. I have read it, but it is a good long time ago.

Q. But the view of the provinces is that it was the contention, it was the view, of the contracting parties at the time the agreement was made that they were to apply to all subsequently constructed branch lines and all subsequently opened shipping points on existing lines?

A. Certainly they did not envisage that there would be no expansions of the C.P.R.

Q. Did they envisage an expansion, though, Dr. Britnell, which is the question, of the reduced rates?

A. Very definitely.

Q. What evidence have you got to support that statement?

A. Merely logic. It would seem completely unlogical to suppose that they had any other idea, because, as I said, you cannot maintain in the same general area, or hope to maintain, two separate scales of freight rates which might be altogether different.

Q. You have no evidence except that?

A. No.

Q. Now, I think you would agree with me that to change an agreement requires the consent of both parties to the agreement?

A. Yes.

Q. Can you refer me to any evidence to show that the Canadian Pacific agreed to any alteration in the terms of the 1897 agreement in regard to the freight rate reductions specified in that agreement or in the area covered?

A. I am afraid I did not quite get that.

Q. Can you refer me to any evidence to show that the Canadian Pacific consented to any alteration in the terms of the 1897 agreement in regard to freight rates, either as to





their extension, as to area or as to direction of movement?

A. No.

Q. Now, just one little point for clarification. On page 2, as to rate changes agreed to by the C.P.R., at the very end of the indented paragraph (b), you say:

"The reductions varied from 10 to 33-1/3 per cent ...."

(Page 19225 follows)



This is practically taken out of the Brief of the Canadian Pacific on this matter, as shown by the footnote, and also from the Statute, with the exception of this last sentence which is added, and I just want to clear up a little point here.

THE CHAIRMAN: That is page 1 that you are talking about?

MR. SINCLAIR: Page 2.

THE WITNESS: It is at the very bottom of page 1 of the printed Brief, the last sentence.

THE CHAIRMAN: You are following the mimeographed Brief, are you, Mr. Sinclair?

MR. SINCLAIR: Yes, the mimeographed Brief. The printed Brief was just handed to me at 10.30 this morning. I am sorry that I have not had an opportunity of correlating the Briefs.

THE CHAIRMAN: I have it now. What is your question, Mr. Sinclair?

MR. SINCLAIR: Q. The Brief reads:-

"The reductions<sup>varied</sup> from 10 to 33-1/3 per cent and were commonly of the former figure."

That is, commonly of the 10 per cent. reduction figure referring to westbound commodities?

A. Yes.

Q. It is correct, is it not, that green and fresh fruits was the only commodity having a 33-1/3 per cent. reduction?

A. Yes, that is right.

Q. And that coal oil was the only one having a 20 per cent. reduction?

A. Yes.



Q. And all the rest were 10 per cent.?

A. Yss. That is right.

Q. I take it that you would agree with Mr. Jefferson's evidence in cross-examination by Mr. MacPherson that there are no green or fresh fruits nor coal oil now moving from Eastern to Western Canada by freight?

A. I do not suppose there would be.

Q. No.

A. There might be a small amount of green and fresh fruits.

Q. Have you made a study of it?

A. No. But there might very well be a small amount of green and fresh fruits moving from east to west.

Q. By freight?

A. Yes.

Q. You will recall that Mr. Jefferson, in his evidence, said that if there was any moving, it would be moving by express?

A. Oh, yes; I am afraid I missed that distinction between express and freight. You are right.

Q. There is quite a distinction?

A. Yes.

Q. In the next paragraph you state that the agreement constituted merely a continuation of the prolonged effort of the Federal Government to secure adequate transportation facilities and to assure the provision of these facilities to the shippers at reasonable rates. We could agree, could we not, Dr. Britnell, that at the time the agreement was entered into the Canadian Pacific was not controlled with regard to the level of individual rates?

A. That is right.





Q. And the only control was that its earnings would not exceed a 10 per cent. return on the capital investment?

A. Yes.

Q. I take it that we can also agree that after 1903 the Canadian Pacific, along with all railways in Canada, was under the jurisdiction of the Board of Railway Commissioners, as it was then called, as to the reasonableness of the level of rates on particular movements of commodities?

A. Yes.

Q. I should like your opinion, Dr. Britnell, as to whether, if individual rates had been under the control of a regulatory body at the time the agreement was entered into, that provision as to "in perpetuity" would have been in the agreement?

THE CHAIRMAN: If what, Mr. Sinclair?

MR. SINCLAIR: If the rates on the Canadian Pacific were under the control of the regulatory body at the time the agreement was entered into, whether in Dr. Britnell's opinion there would have been that term in the agreement.

THE CHAIRMAN: Pardon me, but are you not forgetting that there was a regulatory body?

MR. SINCLAIR: Sir, it was the Railway Committee of the House.

THE WITNESS: Of the Privy Council.

THE CHAIRMAN: They were the regulatory body at that time?

MR. SINCLAIR: I am going to discuss that.

THE CHAIRMAN: You were putting it as though they there was no regulatory body, but there was one.

MR. SINCLAIR: All right; I will put it this way.

Q. If individual rates had been under the control of



a regulatory body of the type now in existence - that is, of the type of the Board of Transport Commissioners - if there had been a regulatory body of that type in existence in 1897, in your opinion do you think that the Government would have put the clause in regarding the fixing of the rate in perpetuity?

A. In my opinion, yes.

Q. Why do you say that?

A. Because I think that the debates of the period indicate that the Government of the day was sufficiently seized of the importance of stable grain rates in Western Canada.

Q. Do you mean by that that the Government of the day had in view that grain rates would be other than on a reasonable basis?

A. No, I do not think so. I think they thought that grain rates would be on a reasonable basis.

Q. And if they had a body that was constantly charged with seeing that individual rates were on a reasonable basis, do you still think that the Government would have asked for that provision, placing a fixed rate on it?

A. Yes; because the Board of Transport Commissioners, for instance - or the Board of Railway Commissioners as it was then constituted - as later constituted, do not look on aspects of reasonability just in terms of the economic dislocations of that particular area. My definition of "reasonable" might be different from yours and certainly would be different from that of the Board of Transport Commissioners.

Q. I should like to ask you, if you would not mind, to give me your criteria of what is a reasonable rate.



A. A reasonable rate would be a rate that provided an adequate return to the railway, a proper return to the railway, taking into account at the same time the economic effects upon the western region of rates on grain. We are talking about rates on grain, presumably.

Q. Am I to take from that criteria that if the rate, to be proper and adequate to the railway, was higher than could be left without having some adverse effect on the "Western economy, you think that that rate should go into effect without any recompense whatever to the railways?

A. I think that rate should go into effect; and as I said to Mr. Covert, I would think that the deficiency should be made up from other sources.

Q. So I take it that we are in agreement, Dr. Britnell, that primarily one of the basic problems here is to have adequate and proper rates for the movement of grain to the lakehead and to the Pacific coast ports for export?

A. I do not think I would go that far. I do not think it has ever been established that they are non-compensatory.

Q. Never mind what the result of it is. Let us deal with the matter as one of principle.

A. I think our position would be that we stand upon the agreement which was made by the freely contracting parties..

Q. We are back to where we were a little while ago. Let us leave that for a while and deal with what we are dealing with now, if you do not mind. If the railways are to remain efficient and are to provide adequate facilities, it is essential for them to have proper rates, particularly for the movement of grain?

A. I would not say proper rates. I would say they would have to have adequate revenues to maintain the





railway. I would definitely distinguish between that and what you define as "proper rates"; they should have "adequate revenues" yes.

Q. You mean they should receive adequate revenues for the movement of grain?

A. No. I would take the larger picture , the over-all picture. I think the rates on grain are irrelevant.

Q. That is the statement you made in your original evidence.

A. Did I? I have not refreshed my memory on it, but I am glad if I am at least consistent.

THE CHAIRMAN: Q. As to these adequate revenues that you referred to, had you in mind revenues arising from freight rates?

A. I am thinking of, if necessary, supplementing that out of the national treasury, if necessary to maintain the railway facilities of the country, looking at the two railways as an <sup>instrument</sup> of national policy.

Q. Viewing it as a railway that does not indulge in any other activity?

A. Oh, definitely.

Q. And which acts strictly as a carrier?

A. Exactly.

Q. You say that anything that is required to supplement reasonable rates should be provided by the national purse?

A. Yes.

MR. SINCLAIR: Q. Suppose there was a body of opinion that did not agree with that stand, but felt that all traffic should bear its fair share of the cost of moving it. How do you think that body of opinion can be

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satisfied with a fixed level of rates on grain?

A. I would leave that to Parliament.

Q. Would you agree with me, Dr. Britnell, that the reason why the Board of Transport Commissioners predecessor, the Board of Railway Commissioners, was set up was that members of Parliament found that they could not properly deal with rate-making matters?

A. Yes, with the exception that they made one specific exception and one only; that is with respect to grain.

Q. You think that there is a distinction between grain rate-making principles and any other rate-making principles?

A. I think there is a distinction between grain and other commodities, in terms of the importance of grain to the entire economy of Canada both historically and at the present time.

Q. Would you agree that Parliament is not as well equipped as are the Board of Transport Commissioners to deal with railway cost problems and railway rate problems in the handling of grain?

A. If you take out those last few words, I would agree with you.

Q. But I want to put them in.

A. You want to put them in?

Q. Yes.

A. In answer to that I will say that I would prefer to leave it to Parliament to decide with respect to grain rates.

Q. What is the reason for your preference?



A. Because the whole western economy was settled under, as one of the basic, fundamental underlying conditions, the stable level of freight rates guaranteed under the Crows Nest Pass agreement, and that that is a part of the established national policy now going into its fifty-fourth year.

Q. In answer to Mr. Covert I think you admitted that in dealing with transportation you have to deal with transportation from the farm to the consuming centres of Europe?

A. Yes.

Q. And I think that you also stated to me that there was only one segment of that transportation cost controlled ?

A. Yes.

Q. And that is the segment from the country elevator --

A. That is controlled by parliament.

Q. By parliament.

A. Yes.

Q. And that is the segment from the country elevator to the lakehead terminal, we will say.

A. Yes.

Q. Or to the Vancouver terminal.

A. Yes.

Q. There is a segment from the farm to the country elevator. Is that controlled in your province ?

A. Very effectively by competition between farmers; very effectively. In fact most of it, I suspect, that is custom hired does not begin to pay. The competition is so cut-throat that the farmer who gets into the trucking business is very lucky if he manages to get back his interest and depreciation charges, if they are properly charged.

Q. Does your government make it a condition upon the issuance of licences that they haul grain to country





elevators at a fixed price?

A. No. It is quite unnecessary.

Q. Would you say that a rate of five cents per hundred from a farm to an elevator was out of line?

THE CHAIRMAN: I did not catch that figure.

MR. SINCLAIR: Five cents a hundred.

THE WITNESS: From a farm?

MR. SINCLAIR: To an elevator.

THE WITNESS: How far is the farm from the railway?

MR. SINCLAIR: Q. I am just going to take the average haul from a farm. A. I would think it is too high.

Q. Too high?

A. Yes.

Q. A hundred.

A. Oh, a hundred?

Q. Yes.

A. That would be three cents a bushel?

Q. Yes.

A. No. Probably that is fairly close to an appropriate figure; fairly close.

Q. That gives a fairly high ton-mile earning.

A. When the distance is two, three or four miles, there is far more time spent in loading and unloading the grain than there is in moving as against five hundred, six hundred or seven hundred miles to a railway. I think that is sufficient to vitiate any comparison whatever.

Q. But it is one of the segments of cost.

A. It is one of the segments of cost; but you cannot begin to compare the ton-mile basis when most of the time is spent in loading and unloading.

Q. With the portable grain loaders, does it still take a long time?



A. Yes; because you have small growers to deal with, or in most cases you are probably hauling from the combine and that means picking up at two or three places around the field.

Q. And that is the reason why you say on a ton-mile basis there is no comparison?

A. I think that vitiates any comparison, the length of the haul and the time spent in loading and unloading.

Q. But we can agree that it is one segment of the cost of transportation?

A. Oh, yes.

Q. The next segment, as I said, is from the country elevator to Fort William.

A. Yes.

Q. And that is fixed?

A. Yes.

Q. By parliament.

A. Yes.

Q. And is under the control of no regulatory body that has the matter under review at all times?

A. Yes.

Q. The next segment is from Fort William, we will say, to Montreal. In one <sup>sense</sup> if it moves by rail, it comes under the board of Transport Commissioners; if it moves by water it comes under the Board of Grain Commissioners. That is correct, is it not?

A. Yes.

Q. Then we have the next segment, and that is from Montreal, we will say, to Liverpool?

A. Yes.

Q. And that is not controlled at all?

A. Except by competition.

Q. By competition.

A. And that competition is a very effective means



of control.

Q. But the government have not attempted to fix a rate for the movement from Montreal to Liverpool, have they?

A. No. It is completely unnecessary.

Q. They could fix a rate if they wished, could they not?

A. Yes; I would think that they could.

Q. As a condition of Canadian flag registration?

A. A. That is right. I was thinking in those directions; go back to the Navigation Acts.

Q. So that the reason why you feel that parliament should control the rate from the country elevator to the lakehead terminal is that there is no competition for the movement of grain in that area; is that correct?

A. I think that is the major element, very definitely.

Q. And are you suggesting to the commission that Parliament is better able to judge what would be a reasonable rate under those circumstances than is the Board of Transport Commissioners?

A. In terms of the larger, over-all picture; the over-all national picture, yes.

Q. Let us just deal with the movement of grain, and a reasonable rate for the performance of the given service.

A. I am prepared to leave it to parliament.

Q. I asked you if you felt that parliament was better able to deal with the reasonableness of the rate --

A. Yes.

Q. -- from the country elevator to Fort William.

A. Yes.

Q. -- than the Board of Transport Commissioners?

A. Yes, taking the position of the <sup>farmer</sup> and the position of the railway into account.

Q. And is it the position of the western provinces that they have no confidence in the Board of Transport





Commissioners to fix a reasonable rate?

MR. MacPHERSON: I object to that question, Mr. Chairman. It is not a question of having no confidence in anybody or being asked any questions about it. The witness has a right to come to this commission and to state what his representations are; and I submit that such a question as is now being put is quite unfair.

(Page 19235 follows )



THE CHAIRMAN: Well, it might have been put in this way, I suppose, that what the people Dr. Britnell speaks for, fear is - -

MR. SINCLAIR: That is my next question.

MR. MacPHERSON: You can ask that.

MR. SINCLAIR: No, I think my first question is to ask - -

THE CHAIRMAN: You see, Mr. MacPherson, we must canvas reasons for. That is what we are here for, to determine on this - -

MR. MacPHERSON: Quite, my lord, but the question put by the counsel to the witness is, that you have no confidence in the Board of Transport Commissioners.

THE CHAIRMAN: Well, I know. As I say, I think - -

MR. MacPHERSON: I am objecting to that.

THE CHAIRMAN: That what Mr. Sinclair means, I suggested, could be put in another way of expressing his thoughts.

MR. MacPHERSON: In the way it was put I am objecting to it. We are not objecting to getting at fundamentals so far as the investigation is concerned, but I am objecting to the question as it has been phrased.

THE CHAIRMAN: Your objection was properly taken. The language was not the proper language to use. Yes, Mr. Sinclair, I know what you are aiming at, and you can achieve that purpose I think - -

MR. SINCLAIR: I think my friend, Mr. MacPherson, is unduly sensitive.

THE CHAIRMAN: He may be, but he has a right to be, of course.

MR. SINCLAIR: To be unduly sensitive?



MR. MacPHERSON: I am properly sensitive if the question is phrased such as he has phrased it.

MR. SINCLAIR: Very well, my lord, I will rephrase it.

Q. Dr. Britnell, is it the position of the Western Provinces that harm would be suffered by the Western farmer if the Board of Transport Commissioners fixed a just and reasonable rate for the movement of grain from the elevator to the lake?

THE CHAIRMAN: Pardon me. Isn't your question involved? You say, would they be harmed if the Board set just and reasonable rates?

MR. SINCLAIR: That is it.

THE CHAIRMAN: But the attitude of the Provinces must be that the present rates are the just and reasonable rates, all considered.

MR. SINCLAIR: I say no, my lord.

THE CHAIRMAN: You say the Provinces do not take that attitude?

MR. SINCLAIR: That they are just and reasonable?

THE CHAIRMAN: No, but you want to know what Dr. Britnell thinks or what his people think. You put your question: Would they not be satisfied if the Board were to provide just and reasonable rates? Is that what you said?

MR. SINCLAIR: Yes, I asked him how the Western farmer would be harmed if the Board of Transport Commissioners fixed just and reasonable rates for the movement of grain to lake.

THE CHAIRMAN: That is my point. Do you mean by just and reasonable rates, rates that could not harm him?





MR. SINCLAIR: I want him to answer the question, my lord.

THE CHAIRMAN: You see, the question then - that is, I think your question is too involved to be answered with any exactitude. Supposing the Board did fix rates?

MR. SINCLAIR: Let me put it - -

THE CHAIRMAN: Then the question would arise: Are those rates just and reasonable?

MR. SINCLAIR: Well, my lord - -

THE CHAIRMAN: Then I presume if they were higher than the present rates, it would be asserted that they are not just and reasonable?

MR. SINCLAIR: Well, I certainly want to be fair to the witness.

THE CHAIRMAN: And it is abundantly set out in the Brief.

MR. SINCLAIR: What I want is the views of the Provinces, and I want at the same time to be abundantly fair to Dr. Britnell, and I don't want to trap him.

THE CHAIRMAN: You must be careful how you use such language, "just and reasonable".

MR. SINCLAIR: Maybe with a little more time we may get something in some way that would be satisfactory, my lord. I am afraid I will have to go back over some of the ground I thought I had covered.

Q. The Western Provinces, Dr. Britnell, are prepared to pay just and reasonable rates for the movement of grain to lake, are they - or rather to support just and reasonable rates for the movement of grain to the lake head?

A. The Western Provinces are prepared to pay the Crow's Nest Pass rates.



Q. Well, don't fence with me, Doctor.

A. No, I think nothing can be fairer. I have told you what they are prepared to pay.

Q. You cannot answer my question?

A. They are prepared to pay - -

Q. To support the payment of, I think you had better put it.

A. To support the payment of the rates which will provide a reasonable return to the railway, after full cognizance has been taken of the position of the railways as instruments of national policy.

Q. Well, we have had that before, Dr. Britnell, and I wonder if you could try to help me, because I am trying to get some evidence here as to the attitude of the Western Provinces. It is sometimes a little difficult from reading these Briefs to understand.

A. I am sorry about that.

Q. Now, may I ask you again as to whether the Western Provinces are prepared to support the payment of just and reasonable rates, whatever that amount might be, for the movement of grain from country elevators to the lake head?

A. If you will let me define the "just and reasonable" - -

Q. In accordance with the established principles of rate-making, making that definition?

MR. MacPHERSON: That is a question of law, the question of "just and reasonable" as defined in the Railway Act. My friend is asking the witness a question of law.



MR. FRAWLEY: My lord, it is a little more than that. Mr. Evans is on record as saying that the standard mileage rates or standard commodity mileage rates that are filed with and approved by the Board under Section 330, those are just and reasonable rates. Now then, we have had it here that the commodity mileage rate on grain from Regina to Fort William is 58 cents. Now, if that is what my friend Mr. Sinclair, is asking about, perhaps he can ask the witness that, but those are the just and reasonable rates according to Mr. Evans' definition.

MR. SINCLAIR: Once again we have a very broad statement from Mr. Frawley. Mr. Frawley, I would like to recall to him and to the witness, if I may: when Mr. Jefferson was on the stand it was stated that the position of the Canadian Pacific was that if grain rates were placed under the jurisdiction of the Board of Transport Commissioners, that the Canadian Pacific was prepared to have it made a condition that before they came into effect such rates would be first approved by the Board.

MR. FRAWLEY: Now, of course, my lord, my friend questions my broad statement as being inaccurate. I say that Mr. Evans said that just and reasonable rates are those approved under Section 330; and if 58 cents is the rate, the approved rate, to carry grain from Regina to Fort William, as an example, then that is the just and reasonable rate that Mr. Evans was talking about. This condition of the Canadian Pacific willing to sit around and take a seminar before the Board of Transport Commissioners, that is another matter altogether. There has to be legislation passed before that could come in.





THE CHAIRMAN: Well, put your question, Mr. Sinclair.

MR. SINCLAIR: I seem to be having a bit of difficulty with my friends.

Q. Dr. Britnell, I am going to ask you to make some assumptions with me, and maybe we can make more progress. Assume that grain rates are not controlled by statute.

THE CHAIRMAN: Are not controlled by ---

MR. SINCLAIR: Are not controlled by statute. Assume that legislation requires the Board, before fixing rates on grain to the lake head, to first approve the rate filed. Would the Western Provinces support an application to fix that rate at a level that was just and reasonable for the movement of grain, as a commodity, in accordance with the established principles of rate-making?

A. Definitely not.

Q. And why do you say that?

A. For the simple reason that the whole of Western Canada is quite unanimous that the most appropriate way to settle grain rates is through Parliament.

Q. Well, I asked you to assume with me. You forgot my first assumption.

A. Well, it was a horrible assumption.

Q. Let us assume ---

A. There would be no statutory control. It is the sort of assumption that the Westerner doesn't like to consider even.

Q. Is the reason why he thinks it a horrible assumption that he feels that rates under statute are at other than a just and reasonable level?

A. No, but he does feel that "just and reasonable" receives an extremely legalistic interpretation under the



Railway 'Act, and that "just and reasonable" is something which Parliament is better . . . 'able to discover in an over-all sense, than any Board or tribunal, however eminent its personnell.

Q. You would agree, would you not, that the basic and floor of a just and reasonable rate is something more than the cost of moving the commodity?

A. Yes.

Q. And would the Western Provinces be prepared to support a rate for the movement of grain that would give something more than the cost of moving the commodity?

A. No, the Western Provinces would never agree to consider grain entirely by itself in the narrow and restricted sense of the assumptions which you ask me to make and in the terms of the question. Now, I am inter. . . , preting Western opinion, I am afraid.

Q. You have not consulted about it?

A. Very definitely. I say I am interpreting Western opinion there, and I know that it is the position of all the people I have been associated with.

Q. You would not agree with me that the Western farmer is prepared to pay a cost for moving grain from the elevator to lake head that would return to the railways something more than the cost of moving that commodity?

A. Well, he refuses to accept the dilemma in which you try to place him by paying rates on grain. He wants to tag along with Parliament, and that is why he is so confident of Parliamentary control: he wants to take the broader national approach.

Q. In other words to make somebody else help him to carry the burden?



A. That is not it, and that would be an implication that he would resent.

Q. He would?

A. Because he looks upon the railways as instruments of national policy, with the tariff (that is the first time it has been mentioned) tied in, and any attempt to put him into a position of that sort would meet with a good deal of, I think, just resentment.

Q. If the Board of Transport Commissioners were directed by statute to make an inquiry into the cost of moving grain to lake head and it fixed rates that returned to the railways something more than that cost of movement, you still think the Western farmer would object?

A. Definitely.

Q. And if the legislation also provided that any burden that he bore ---

THE CHAIRMAN: Any what?

MR. SINCLAIR: Q. Any burden that the farmer bore in connection with paying a rate such as I have outlined, would be taken up by subsidy which would be paid at the time he received his cheques from the Wheat Board? Would he object then?

A. Yes.

Q. He seems to be objecting to everything. Do you think that is a fair statement?

A. No.

. THE CHAIRMAN: Now you are talking of the subsidy paid to the shipper, are you?

MR. SINCLAIR: Yes.

THE WITNESS: Yes.

MR. MacPHERSON: Paid, that is, to the industry.

MR. SINCLAIR: The subsidy to the industry, yes.

THE CHAIRMAN:





THE CHAIRMAN: Well, then, what Dr. Britnell objects to, he says ---

THE WITNESS: It would be inconsistent with the entire approach of the Prairie Provinces that the railways are instruments of national policy, and that if any adjustment is necessary the adjustment should be made through the railways themselves.

MR. SINCLAIR: Q. You think that that is the view of the Western farmer, do you?

A. Yes.

Q. In all provinces?

A. Well, I have not consulted the whole three hundred thousand of them, but I think it is.

Q. But you have consulted their representatives?

A. I have consulted their representatives. I think it is substantially their point of view.

THE CHAIRMAN: Q. Do you say that your people agree with the principle of the Maritime Freight Rates Act?

A. Yes, That is, I am talking now for the Province of Saskatchewan on that particular point, the Maritime Freight Rates Act.

COMMISSIONER ANGUS: And they would not object to the Board of Transport Commissioners assessing the sort of normal rate?

A. No.

Q. For the purpose of measuring the subsidy?

A. No.

MR. SINCLAIR: Q. Dr. Britnell, you stated that this fixed rate which was established by the agreement was designed to improve the competitive position of the cash staple of the prairie region?

A. Yes.

(Page 19243 follows)



Q. And you used there -- that is on page 3 of the mimeographed brief, at the very top -- the word "export", "the export position". Now, the rates on grain to Fort William are the same whether the grain moves outside of Canada or moves to Eastern Canada for local consumption in Eastern Canada?

A. Yes.

Q. So that the present rates, fixed by statute, would they do more than improve the export position of the western Canadian farmer?

A. Slightly more, yes, inasmuch as there is some consumption in Eastern Canada.

Q. Would the western provinces support legislation to have rates other than export rates on grain moving to Fort William placed under the jurisdiction of the Board of Transport Commissioners?

A. Yes -- they would object to it.

Q. I said support?

A. No, they would not support it.

Q. Then they want more than something that is to help them in their export position, do they?

A. That is hardly what the statement says. "These reductions were designed" -- that is, designed by Parliament -- "to improve the competitive export position of the cash staple of the Prairie region."

Q. I think you have told me that they extended beyond that, in so far as---

A. Yes.

Q. ---wheat that was moving locally?

A. Yes.

Q. Now, I am asking you whether the western provinces would support legislation which would enable rates on grain moving to Fort William that did not go export to be



under the Board of Transport Commissioners?

A. No, they would not support it.

Q. Why?

A. For two reasons, I think: First of all, that it would be administratively difficult to decide back at Warman, Saskatchewan, whether one carload of wheat was going into export and one carload into domestic consumption. There would be an administrative problem there.

Q. That is their concern, is it, the administrative problem?

A. No; that would be one factor; I say there would be one factor.

Q. Would that be the primary factor?

A. No; a primary factor would be---

Q. Just a minute; would it be an important factor?

MR MACPHERSON: Let him finish, please.

MR SINCLAIR: I am just trying to finish up the one question.

MR MACPHERSON: The witness starts to answer and then you interrupt. The witness should finish his answer; he is entitled to do that.

THE WITNESS: The primary factor, Mr. Sinclair, would be that they would regard it as the thin edge of the wedge.

MR SINCLAIR: Q. Psychologically?

A. Partly -- largely psychological.

Q. Do you think Crows Nest Pass rates are largely psychological, Dr. Britnell?

A. No, I certainly do not.

Q. But that part you think is?

A. Yes.

Q. So at least there is some common ground between you and Mr. Armstrong?





A. Oh, yes. Mr. Armstrong and I are old friends.

Q. I was talking about common ground.

A. Oh, common ground? Well, that is a different matter, of course.

Q. There is some common ground?

A. Yes, I think so.

Q. And there is one aspect of it?

A. I think his word is superstition.

Q. About the psychological aspect?

A. I think his word is superstition.

Q. Well, let me translate it to psychological?

A. No, I cannot go that far, I am afraid, Mr. Sinclair, there, but I think it would be reasonable and logical, if any breach is made in the defence of the western farmer by removing part of the grain crop, for him to believe that it would not be very long before the C.P.R. would be back labouring hard to remove the rest of it.

Q. If it was provided for by statute, wouldn't that give him confidence?

A. It would give him more confidence than if it were not provided by statute; but he is satisfied with the status quo.

Q. Irrespective of the difficulties that that status quo might occasion to everybody else? Is that right?

A. Oh, I do not think that is a fair statement, Mr. Sinclair. There are no great difficulties that appear to be encountered by other people as a result of that -- at least, it is not established; it has never been traced back to the Crows Nest Pass rates, that any difficulties have been suffered by anybody else in the community.

Q. Well, assume with me, Dr. Britnell, that rates on other traffic are higher than they need be on account of the fixed level of rates on grain to Fort William; that is a



difficulty for many people; you would agree with that?

A. Yes, except that I am not prepared to make the assumption. It is a hypothetical case that you are putting to me. No one has ever established that that is so.

Q. Well, if it could be proved?

A. If it could be proved, then, as I have said, we think that the remedy -- that is, we in Saskatchewan think the remedy is through a national subsidy.

THE CHAIRMAN: Q. You had better complete that, I think, for the record. A national subsidy to whom?

MR MACPHERSON: Q. A national subsidy to whom, the Chairman asks?

A. To the railways.

MR SINCLAIR: Q. I was rather interested in some of your answers to I think it was Mr. Covert, in relation to the fact -- and it is also in your brief -- that you say that these Crows Nest rates are a furtherance of the national policy of assisting agriculture in Western Canada?

A. No, I do not think I say that at all.

Q. No?

A. In the development of the prairie region. The assistance of agriculture suggests a handout to agriculture, which I do not think is accurate. The idea of the Dominion -- in fact, one of the major objectives, if not the major objective, of Confederation was the development and settlement of Western Canada. There is a sharp distinction there between that policy and assistance to agriculture.

Q. Well, I think that you have stated that part of the national policy, as you put it, was to have adequate and efficient railway service; that is a paraphrase of it?

A. Yes.

Q. That is correct?

A. That is correct.



Q. Do you think there can be any conflict between the maintenance of adequate and efficient railway service and the establishment of a prosperous western economy?

A. In the long run, no.

Q. Let us take the short run, then, if you put it that way. In the short run do you think there is any conflict?

A. I think it would be a case of the railways taking too short-run a view of it, and believing that by raising rates in Western Canada they could be prosperous regardless of the situation of the western farmer.

Q. You think that the railway management is noted for taking short-run views of matters, Dr. Britnell?

A. I will put it this way, that it is not uncommon for men to be unable to see the long-run advantages.

Q. So that it is only the fear of the railways taking a short view, that you would feel that there would be any opportunity of conflict between a policy of having adequate and efficient railways and a sound western agricultural position?

A. Well, there might be considerable differences of opinion that would prescribe different remedies.

Q. Now, Dr. Britnell, at page 6 of the mimeographed brief:

"Rates on imports into and exports from the Canadian West remained unsatisfactory to the settlers and acted as a deterrent to western agricultural expansion."  
Have you studied the condition of western agriculture prior to 1897?

A. Yes.

Q. Have you looked at the acreage figures in the year 1896 compared to the years immediately precedent thereto?

A. I expect I have seen them, but I have not---





Q. They did not impress themselves on you in any way?

A. I cannot remember.

Q. I suggest to you that in 1896 the largest acreage in the history of Canada was prepared for seeding?

MR MACPHERSON: In the history of Canada?

THE WITNESS: Up to that time, yes.

MR SINCLAIR: Q. Up to that time, of course.

A. Yes.

Q. Would that be correct?

A. Oh, I am quite confident that it is correct. I am prepared to accept your figures.

Q. So that how do you suggest that the rates were acting as a deterrent to western agricultural expansion, if the year before there was a larger acreage prepared for seeding than ever before in the history of Canada?

A. That is still a quantitative measure. That might very well be the case. If you will compare the acreage expansion after that time with the expansion of 1896 or before, I think you will find the answer. The proof of the pudding is in the eating, and there is the case---

Q. Western agriculture was expanding even before the Crows Nest----

A. Very, very slightly compared to anything that happened afterwards.

Q. But you are not suggesting that the grain rates being fixed by statute was the cause of the abroad expansion after 1897?

A. I am suggesting that they were a very important element in that expansion.

THE CHAIRMAN: We will adjourn now.

---The Commission adjourned at 1:00 p.m., to meet again at 2:45 p.m.



AFTERNOON SESSION

DR. G. E. BRITNELL Recalled

CROSS-EXAMINATION BY MR. SINCLAIR (Continued):

Q. Dr. Britnell, on page 17 of the mimeographed brief near the bottom of the page you state:

"The west has developed on the basis of Crow's Nest rates and in reliance on their statutory stability."

I.s it the view of the western provinces that they are definitely stating that the west would not have developed had the rates on grain to Fort William not been reduced by three cents per hundred pounds from the rate in existence in 1897?

A. I would say that you would have to go a little further than that, namely, that it was on the basis of statutory control of rates and the assurance that gave at the beginning of the settlement process, that greatly encouraged and stimulated and fostered agricultural development in the area rather than the mere three cents.

Q. I agree with the view that you expressed when you were here in November, I think it was, that the acreage in the west devoted to grain raising is stable and has been stable for quite a number of years.

A. Yes.

Q. So that expansion of the western economy is not now something that need concern us?

A. No. It is the consolidation. The problems have shifted from problems of expansion to problems of conservation and of consolidation.

Q. Yes. That is, soil problems?

A. Yes, and the whole range of sociological problems that arise from changes brought about through mechanization.

Q. You are a keen student of the western agricultural mind, Dr. Britnell.



A. Thank you, sir.

Q. What would you say was the most important factor in the mind of the farmer dealing with his prosperity?

A..Would you just repeat the question? I am not quite sure that I caught it correctly.

Q. What would you say would be the most important factor in the mind of the western farmer, that he would look to as assuring his prosperity?

A. The price of wheat.

Q. The price of wheat?

A. Yes.

Q. And what governs the price of wheat, Dr. Britnell?

A. The world market.

Q. And you would agree that there are no two markets in wheat, the world market and the domestic market?

THE CHAIRMAN: Do you mean in Canada?

MR. SINCLAIR: Yes, my lord.

THE WITNESS: That is true under normal circumstances. It is made a little bit more complex by the present market contracts for Canadian wheat; but as a long-run proposition, yes.

MR. SINCLAIR: Q. In the United States would you say there was ~~a~~ a world market and a domestic market in wheat?

A. Yes. I am inclined to think there would have to be a division.

Q. Are they related one to the other?

A. Very loosely.

Q. Would you agree with this statement, that the only difference between the domestic market in wheat in the United States and the export market in wheat in the United States is the amount of government support to the farmer?

A. Yes.





Q. Otherwise the situation is the same as it is in Canada?

A. Yes, in all essentials; in general essentials.

THE CHAIRMAN: When you say the difference is the amount of government support to the farmer, that means the amount which is on the domestic market or on the export market?

MR. SINCLAIR: I say there are no two world markets, but that they look upon the United States agricultural economy as something that must be maintained on a certain basis; and if the world market price does not enable that agricultural economy to be maintained on that basis, they subsidize it to an extent sufficient to put it up to their parity.

WITNESS: That is right.

MR. SINCLAIR: Q. That is correct?

A. That is right.

THE CHAIRMAN: You are speaking of what they are doing right now, are you?

MR. SINCLAIR: Yes, my lord.

Q. The Argentine market is part of the world market, is it not, Dr.Britnell?

A. Yes.

Q And the Australian market is part of the world market?

A. Yes.

Q. And the most important factor in determining the price of wheat in the world<sup>market</sup> is wheat in position in Europe?

A. Yes.

Q. On account of the particular and unusual economy followed by farmers in general you would agree, would you not, that they cannot quickly revert to some other type of endeavour?



A. Yes.

Q. And would you agree that that is a real advantage to the buyer of wheat, the situation of the inability of the wheat farmer to revert to some other type of endeavour?

A. It probably does help his position.

Q. And you would agree, I take it, that the buyers of wheat are very skillful traders?

A. Yes.

Q. And whether they are buying on a free market or buying through government contracts, the same skill in trading is exercised by the buyers?

A. Yes.

Q. I take it that you would feel that a strong position with regard to trading must at all times be maintained by the seller?

A. Yes.

Q. And if a strong position is not maintained, the buyer will take advantage in places where he ordinarily would not be able to do so?

A. Yes.

Q. Suppose that, tomorrow, the price of wheat was known to be five cents under the price it is today. Do you think that the buyer in Europe would take advantage of five cents or would he take advantage of more than five cents?

A. If the price of wheat -- ?

Q. If the price of wheat were known to be five cents lower tomorrow than it is today, do you think the buyer of wheat would take advantage in his offers of the five cents or would he take advantage of more than the five cents?

A. It could only be five cents lower, by the interaction of supply and demand, which the buyer would be



a part of; that is, the buyer is not somebody sitting back having no part in the establishment of the market price. He is a factor in that price. He is not viewing it from outside. The reduction would only come about through some action on the part of the buyer.

Q. The buyer is very well informed as to the cost of production of grain in the various areas from which he is buying. Would you agree with that?

A. I rather doubt whether he is well informed as to the cost of production, because every individual farmer has a different cost of production. He may have a rough, general idea of it.

Q. Yes.

A. The cost of production is one of these fighting concepts; it depends on where you draw the line and what you define as the cost of production.

Q. Yes.

A. I do not think that is a very large element in the buyer's calculations.

Q. It is not?

A. No.

Q. He is not concerned then, I take it, in your view, with the actual number of bushels produced at any given time?

A. Oh, definitely.

Q. He is not interested then in seeing to it that the price that he offers is sufficient to bring forth the amount of wheat that he requires to fulfil his commitments?

A. He might be, if he were one buyers; but there are many buyers in the market and they are all operating independently of each other.

Q. You think that is true?





Q. Have you made a study of the independence of the European buyers of grain?

Q. You are fortunate that you have not published anything.

Q Yes. You would agree with me, would you not, that the buyers in Europe would exchange information as to the probable amounts of grain that would be available at any given time?

Q. Would you agree that, generally speaking, in the grain market it is a buyers' market?

A. Unfortunately, that is more customary than the reverse.

Q. Yes; it is only on rare occasions that it is a sellers' market in grain?



A. Although again you are getting into the question of definitions, what is a buyers' market and what is a sellers' market. We know that we had a sellers' market here three or four years ago. That is pretty obvious.

Q. I am talking about grain in Europe.

A. But it is a little bit difficult to be sure that you have not a buyers' market.

Q. When you look at the farmer and his inability to change the type of production he is in, that assists you in determining what kind of market there is, usually?

A. Of course, there are limits and there are qualifications even to that,

Q. Could we not agree on this generality.

Mr. MacPHERSON: Let him finish what he was going to say.

THE WITNESS: What I had in mind there, Mr. Sinclair, was that he cannot change from one week to the next. He can make some adjustment on the margin. For instance, in the park belt of the prairie provinces ---

THE CHAIRMAN: Q. In the what?

A. In the park belt of the prairie provinces which are suitable to a mixed agriculture, the price of wheat will have a good deal to do with whether, in this coming spring, the farmer seeds wheat or whether he seeds oats and barley and begins to divert at least part of his production to the raising of livestock. That is, you cannot generalize in terms, and say "the farmer" when you have somewhere between 200,000 and 350,000 farmers in the prairie provinces.

Q. But is it not a good average statement to make, that, generally speaking, the buyer controls the market in regard to wheat?

A. I would not want to go that far.

Q. You would not?



A. No, I would not want to go that far. There are times when he does.

Q. Most of the time?

A. No. I would not want to say that most of the time the buyer controls the market. I think the general situation is true, but that may be merely a western prejudice, -- that the buyer is generally in a stronger position than the seller.

Q. And would you agree with me that the price he offers will be a price that will enable him to secure the amount of wheat necessary to supply his needs?

A. Yes, in terms of his immediate needs. I do not think he plans deliberately - that is, on any five-year plan or any one-year plan - as to what he is going to take. He picks it up here and he picks it up there. He picks it up this week; he picks it up at some other time. I think you are attributing to the buyer much more planning that he actually carries out.

Q. We now have government as the large buyer, have we not?

Q. In some countries, yes.

Q. In most countries; that is, importing countries.

A. The large importers today tend to be governments.

Q. Yes. And they are most interest in having available the amount of wheat that they require to fill their needs; and that will govern the price that they offer?

A. Yes.

Q. If the price of grain was increased by, to adopt Mr. MacPherson's figure, an additional 20 cents a hundred on the average ---

MR. MacPHERSON: The freight rate.





MR. SINCLAIR: Yes; pardon me. I meant the freight rate on grain.

Q. If the freight rate on grain was increased, to adopt Mr. MacPherson's figure, on the average of 20 cents a hundred --

A. To double it.

Q. --would you agree that that would make the buyer raise his price?

A. No; definitely not.

Q. It would not?

A. No.

Q. Suppose over a period of two years those farmers that can change - and you admitted to me that they could - went out of wheat production and therefore the amount of grain available to the buyer fell off, would he then increase it?

A. I think the most likely thing is that he would not increase it at all but the farmer in <sup>the</sup> Argentine, encouraged by what was going on in Canada, would increase his acreage, and correspondingly in Australia; and that the net position of Canada would be that she would lose part of the world market for wheat; because there are margins in those countries that can roll back and forth very easily in terms of production.

Q. Would you not agree, therefore, that that would depend on the cost of production of wheat in Australia, the Argentine and the United States as compared with Canada?

A. Yes; very largely.

Q. And therefore that the total cost of production in Canada includes that segment of the whole between the country elevator and the lakehead terminal?

A. Would you give me the question again? I am afraid I did not follow it.



I did not follow it.

Q. One part of the cost of production in Canada includes that segment of the whole from the country elevator to the lakehead terminal?

A. Yes.

Q. Would it not follow therefore that today the buyer is securing the advantage of any low rate that may be in effect in that segment of the total cost?

A. I cannot follow that.

Q. You cannot follow that?

A. No.

Q. In your first statement in your brief you said that the farm<sup>er</sup> took the world price less the transportation cost. Is that correct.

A. Yes.

Q. And as I understand it, you have receded from that position to put in the words "tends to take" ?

A. I think if you will notice the evidence, you will find that I corrected the evidence at the time.

Q. Yes.

A. To adopt the word "tends".

Q. Yes.

A. Because it is the sort of thing upon which you cannot be completely arbitrary. You have got a fluctuating market, wheat is produced all the year around, and the situation changes very rapidly.

Q. Then would you say that the farmer did not pay the transportation cost of grain to the market?

A. I do not know whether there is ever a time when he does not pay it, but I will say this; in a period of a complete sellers' market his chance of being able to pass on part or all of the transportation costs is increased. Not that the farmer would look at it in that way. He



will respond in just the same way as the buyer does. He gets a chance to get a higher price and he takes it. He does not say, "I think I am going to add on twelve cents for freight. I have been paying the freight all these years, Now here is a golden opportunity to collect the freight this year." He does not reason in that way.

Q. You would not agree, or would you, that in a complete buyers' market the buyer would help pay the transportation cost on the movement of the grain?

A. Not unless the buyers' market were so complete that the price went to zero and the only way the buyer could get the wheat was by paying freight.

Q. And when you use the term "zero" you are using a relative term; that means less than would maintain the farmer for the production of the grain. You do not mean "no cents"?

A. I mean no cents per bushel.

Q. That is your view, is it?

A. Yes.

Q. Would you say that there was a buyers' market or a sellers' market during the latter part of the first world war?

A. In the latter part of the first world war there was pretty close to a sellers' market.

Q. Was it a complete sellers' market?

A. No. I do not think it was complete, by any means.

Q. Not by any means?

A. No.

THE CHAIRMAN: Pardon me, but are you referring to the time when there were selling boards and purchasing boards?

THE WITNESS: I presume so.

MR. SINCLAIR: Quite so, my lord.

Q. The rates on grain to the lakehead went up in





1918, 1919, and 1920?

A. Yes.

Q. Did the farmer bear that increase in freight rates?

A. I think I would answer that question in this way. His return was lowered; his net return was reduced by the amount of that increase.

Q. Do you think you are helping me by that answer, Dr. Britnell?

A. I hope so, sir.

Q. You see the net, Dr. Britnell, or his return is something deducted from the world price. That is what you mean, is it?

A. Yes.

Q. Yes, the world price.

A. No; by net I mean that which he had left which he could call "net income". A farmer, after all, lives not out of his gross income. He lives out of his net income, what he has got left.

Q. Yes. Could I call that farm income?

A. I beg your pardon?

Q. Could I call it farm income?

A. Well, farm income is a term that is applied that will do.

Q. That will do?

A. Yes.

Q. Was the farm income in western Canada reduced by the increase in the freight rates in 1918, 1919 and 1920?

A. Definitely.

Q. It was. And was it ruinous to western agriculture, and I use the term "ruinous" because I think you used it in your brief.

A. Yes, that is true.

Q. Was it ruinous to western agriculture?



A. Not in that period. Fortunately the period was very short.

Q. Four years.

A. Yes, four years. I should not say it was very short, perhaps. I should like to amend that and say "relatively short".

Q. In the life of man, you mean?

A. Yes.

Q. Because we all die.

A. Exactly.

Q. Yes.

A. As I said, the western farmer survived. He is a pretty tough animal.

Q. Is he?

A. And he did survive. He was not completely ruined in those four years. By the use of the term "ruinous" here we are thinking of a situation where it might extend well beyond four years, as I presume it would if the C.P.R. had its way.

Q. Would you think that if grain prices rose, there would be an expanding acreage of production?

A. If grain prices rose?

Q. If grain freight rates rose; I am sorry, I meant grain freight rates.

A. Grain freight rates?

Q. Yes.

A. If grain freight rates rose, whether there would be an expansion in Canada?

Q. Yes.      A. No; the reverse.

Q. You would say that?

A. Yes.

Q. Why was there not the reverse between the period 1917 and 1921 when freight rates rose?

A. For the simple reason that the price of wheat



A. For the simple reason that the price of wheat at that time was going up. At the present time you have only to look at the international wheat agreement to see the expectation of buyers and sellers alike that the price will fall. That is, we are several years later in the cycle.

Q. In the period 1917 to 1921 there was an increase of about five and a quarter million acres in wheat or in land placed in wheat in Saskatchewan?

A. Yes.

Q. And that was during the period when these freight rates went up?

A. Yes.

THE CHAIRMAN: Pardon me, Mr. Sinclair, but what was the difference in the rates , between the Crow' Nest Rate? It may have been told us, but I am not sure.

MR. SINCLAIR: It went to  $32\frac{1}{2}$  cents;  $12\frac{1}{2}$  cents on the average.

THE CHAIRMAN: Instead of 20 cents.

MR. SINCLAIR: Instead of 20 cents, it went to  $32\frac{1}{2}$  cents.

THE WITNESS: It is given on page 13, at the bottom of our printed brief.

(Page 19265 follows)





MR SINCLAIR: Q. The largest acreage in Saskatchewan up until the time of 1921 was in 1921, when the rates on grain to lakehead on the average were  $32\frac{1}{2}\phi$  a hundred; correct?

A. Yes. It was a very short period of time, as you will notice. It was only from September 1920 to January 1921, a matter of four months, that they were at that very high level. They were reduced shortly after that.

Q. Down to  $29\phi$ ?

A. Yes; but psychologically that was a trend in the right direction as far as discouraging expansion of production in Western Canada was concerned.

Q. Would it have a proper psychological trend if the rates were  $29\phi$  now, Dr. Britnell?

A. No, because that would be going up, and, as I say, also at a time when buyers and sellers alike expect the price of wheat to fall. We are a little later in the cycle, Mr. Sinclair.

Q. We can agree on this, though, I think, so we have one basis of agreement, that when the grain rates went up in that period it was not ruinous to western agriculture?

A. Oh, no.

Q. Now, have you made any study of the cost of production of wheat, for instance, in the year 1949 as compared to the year 1918 or 1920?

A. Not exact studies. Studies of that sort are, as I think I explained in my brief last November, or in the examination, so extremely difficult because of the changes in technology that have taken place.

Q. Some of the costs of the farmer have been falling in the last while rather substantially?

A. Well, the price of gasoline is cheaper than it was in 1918.



Q. I saw a statement---

A. Some other prices are.

Q. I was wondering if you would agree that there was a saving of \$30 million in Western Canada in 1949 on account of gasoline; would you agree with that?

A. I would want to look at it very carefully, because it is so difficult. There is a case right in point. There was so much less gasoline used in 1918. The motive power of western farms was very largely horsepower, and you would have to know the relative cost of raising horses and of raising oats to get it down. I am extremely suspicious of any large general figure of that sort. I would like to know what the man is out to prove first.

Q. It would be substantial, though; you would agree with that?

A. Yes, it would be substantial, no doubt.

Q. A substantial reduction?

A. Yes.

Q. So that to date I take it you would agree that the farmer is able to bear a higher freight rate, if he does bear it, than he used to?

A. Oh, no. Merely on the basis of a change in the price of gasoline? No, because the problems of conservation in an economy that has now had virtually thirty years of full development since it reached the maximum or close to the maximum acreage, have also increased -- the problems of soil drifting, as you well know, and problems of that nature, which call for rather more intensive and careful types of preparation.

Q. Would you not agree with this, Dr. Britnell, that the western farmer today is in a better competitive position financially and has been for the last few years than ever before in his history?



A. I think he is.

Q. You only think that?

A. Yes.

Q. You don't know that?

MR MACPHERSON: Let him finish, let him finish.

THE WITNESS: Let me say why. I think he is.

Again, it is so difficult to evaluate, because in the period of the last World War and just following you had not finished or completed the process of settlement; that is, you have <sup>the</sup> difference between an expanding economy and a relatively mature and stable economy, which makes it a very short period over which to say he is more prosperous today than he ever has been before.

Q. Would you think that the Canadian farmer is more prosperous than his American neighbour?

A. I should doubt that very much; I would not think so.

Q. You would not think so?

A. No, I would not think so.

Q. You would think the American farmer is more prosperous?

A. On balance, yes. That is a large term, of course, the American farmer versus the Canadian farmer.

Q. All right, the American farmer growing wheat for export?

A. Oh, but the average American farmer does not grow wheat for export. The American grain farmer even does not.

THE CHAIRMAN: Q. You say the average American farmer does not what?

A. Does not grow wheat for export.

MR SINCLAIR: Q. But the price he receives for his wheat is related to the export market?

A. Yes.





Q. Government subsidy aside?

A. Yes.

Q. Now, would you think that the American farmer is more prosperous even aside from the Government support programme than the Canadian farmer?

A. Even including or even---

Q. Apart from?

A. Apart from? I do not know, because I do not know how to evaluate that Government support programme; that is, I do not know where he would be without it. That is my trouble.

Q. Well, let us take the time before that Government support programme was in force. Was the American farmer then more prosperous than his Canadian neighbour?

A. Yes, by and large; yes, definitely.

Q. He pays higher freight rates for the movement of his grain, doesn't he?

A. Yes.

Q. Substantially higher?

A. Substantially higher, yes.

Q. We have evidence on the record that we are unable to find any rate that was low compared to Canadian standards, irrespective of the haul to water?

A. Yes.

Q. And you have not been able to find it?

A. No. I assumed that I would not be able to.

Q. So that when you pointed to the American farmer being fortunate by being close to water, that does not quite work out in regard to transportation charges, does it?

A. No, no, not if both are raising wheat for export, but I have qualified that by pointing out the average farmer does not raise wheat for export, therefore freight rates are not anywhere near the same part of his total cost; they do



not enter into his net income in the same way as they do in Canada. The comparison again is vitiated by the difference in circumstances between the two countries.

Q. That is your view, is it, that it is vitiated?

A. Yes, that is it. I presume that is what you wanted.

Q. Oh, yes. I will ask you this -- maybe it will be of some help: Coarse grain -- there is a considerable production of coarse grain in Canada?

A. Yes.

Q. The coarse grain price is fixed at a price at Fort William; correct?

A. Yes.

Q. Now, does the farmer on coarse grain -- we will take barley -- get the price at Fort William less the freight to Fort William?

A. Does the farmer get the---

Q. The price at Fort William less the freight to Fort William?

A. Yes.

Q. Now, tell me, if a farmer sells his grain and it is used in a feed lot at Moose Jaw, does he get a higher price?

A. Yes.

Q. He does?

A. He will tend to get the difference between the freight at Moose Jaw -- the freight between Moose Jaw and Fort William or Port Arthur.

Q. Is that your view?

A. That would be my view.

Q. If I am a farmer and I live at---

THE CHAIRMAN: Pardon me a moment. That ought to be a matter of fact, actual fact.



MR SINCLAIR: I am suggesting to the witness that---

THE WITNESS: Oh, wait a minute. I am afraid that I have missed part of the question there. Would you mind going over that again? I think that I was answering what I thought was a different question.

MR SINCLAIR: Well, we will have it read.

THE REPORTER: "Now, tell me, if a farmer sells his grain and it is used in a feed lot at Moose Jaw, does he get a higher price?"

A. Oh, no; the Moose Jaw price will be set by the Fort William price.

Q. If a farmer living at Sintaluta, Saskatchewan, grows barley, malting barley, and he sells it to the Regina Brewing Company, does he get a higher price than the man who sells the barley and its end use is export barley for overseas?

A. Nothing more than the premium on malting barley.

Q. Nothing more?

A. No.

Q. Dealing, Dr. Britnell, with the extension of the area to which the Crows Nest Pass rates apply, you said that it arose from competition and the necessity of avoiding discrimination; that is on page 18.

A. Which part is that, Mr. Sinclair?

Q. Near the bottom of the page.

A. Yes.

Q. Now, would you agree with me, Dr. Britnell, as a student of freight rate problems, that an agreement having statutory effect cannot be used to measure the reasonableness of another rate to support a charge or complaint of unjust discrimination?

MR MACPHERSON: That is surely a question of law.





THE WITNESS: That is a legal question.

THE CHAIRMAN: What is this?

MR MACPHERSON: Surely a question of law.

THE WITNESS: I am afraid I cannot answer that, because I can see the legal---

MR SINCLAIR: Q. Assume that I correctly state the law---

MR MACPHERSON: Still it is a question of law, whether it is right or wrong.

THE CHAIRMAN: What is it you are stating?

MR SINCLAIR: I am suggesting that in this brief he is saying that competition and the necessity of avoiding discrimination originally led to the extension of the Crows Nest Pass to new shipping points.

THE CHAIRMAN: Well, what discrimination has the document in mind there?

MR SINCLAIR: Q. What kind of discrimination did you have in mind, asks the Chairman, Dr. Britnell?

A. Discrimination as between shippers say at Swift Current as against shippers let us say on the Empress Line at Success, a few miles away.

Q. Maybe I can shorten it up by putting it this way: We would be in agreement, Dr. Britnell, that the extension of the Crows Nest Pass agreement prior to 1925 was a voluntary extension in so far as it did take place; correct?

A. That the extension of the---

Q. Of the area to which the Crows Nest rate applied prior to 1925 was a voluntary extension?

THE CHAIRMAN: Voluntary on the part of the railway, you mean?

MR SINCLAIR: Yes.

THE WITNESS: Well,, I do not know that any efforts were made by the Government to compel the railway, if you



mean voluntary in that sense.

MR SINCLAIR: Q. Or any regulatory---

A. No, I do not know of any, so I presume the C.P.R. considered that part of the general background and understanding of the agreement.

Q. That is why you make the---

A. And the sensible thing to do in the circumstances.

Q. Maybe it was that the grain rates during part of that period were compensatory, and they could afford to extend them; did that ever suggest itself to you, Dr.

Britnell?

A. Well, certainly they were lucrative.

Q. I said compensatory; you want to make them lucrative, eh?

A. They were certainly compensatory and lucrative.

Q. Didn't you agree with me this morning, Dr. Britnell, that in 1897 the rates in effect were reasonable?

A. No.

Q. You did not? Then were the rates in 1897 for the movement of grain, in your view and the view of the western provinces, unreasonable?

A. Which rates, the rates before or after the adjustment?

Q. Before.

A. Before?

Q. Yes.

A. No; I think they were unreasonably high.

Q. You think they were unreasonably high. Can you point to any case where any complaint was brought that the rates on grain were unreasonable?

A. I am going by the fact, Mr. Sinclair, that Parliament reduced or managed to make an agreement which reduced the rates.



Q. Does that prove that they were unreasonable?

A. It does not prove that they are, but it is pretty good evidence, in my view again, in just my view, is pretty good evidence that there was a general feeling that the rates were too high.

Q. Then you say three cents below a lucrative rate is a reasonable rate; is that right?

A. I think so -- three cents below a lucrative rate?

Q. Yes.

A. Well, the rate would still be lucrative. The record of C.P.R. dividends would seem to indicate after that time that it turned out to be a very lucrative rate even at that.

Q. Can I follow that by taking your view that the record of C.P.R. dividends on rail earnings today is evidence that the rates are too low?

A. Oh, factors have become so much more complex since that time -- very, very much more complex. The C.P.R. has expanded its operations, and the problem of other income and various other factors come in there.

(Page 19273 follows)





Q. I was talking about rail income.

A. Yes.

Q. Rail income.

A. Well, of course, I don't accept the distinction between the two.

Q. You don't. Now, at the bottom of page 19 you are dealing with the very depressed state of Western agriculture during the 1930's, and I must just ask you to turn your mind to that, much as I hate to do it.

A. Yes, I know.

Q. Now, you point out, and presumably you find some comfort in it, that there was no attempt by the Western Provinces to have a reduction in Crow's Nest grain rates in the 1930's.

A. Yes, we were ready to take the bitter with the sweet.

Q. I take it, Dr. Britnell, that it was your view that grain rates at the Crow's Nest level were unreasonably high during the 1930's?

A. They were unreasonably high from the standpoint of the Western farmer, but, again, as we examined in the discussion this morning, there are two ways of looking at reasonable from the standpoint of leaving the farmer anything, and in terms of the proportion of his total price of wheat which they took, that was calamitously high. From the standpoint of the railway, the earnings of the railway showed that they were not unreasonably high. I would not say "show" but they tend to indicate (let us qualify that); they tend to indicate that they were probably not unreasonably high.

Q. So that you would not have felt that you could have made a case out before the Board of Transport



Commissioners for a reduction in grain rates.

A. Not before the Board of Transport Commissioners.

Q. Your answer?

A. No, not before the Board of Transport Commissioners.

Q. Then there are economic factors in the situation, is that right?

A. Yes.

Q. Well, do you not agree that the proper place to have those economic factors taken into account is in a subsidy to the industry if that is necessary?

THE CHAIRMAN: Is where?

MR. SINCLAIR: A subsidy to the industry.

THE WITNESS: Well, in that particular case where the rates had been established under the Crow's Nest Pass rates, we did not ask for anything in Western Canada to be done to the railway rates. If we required anything for our economic distress, we were prepared to seek it somewhere else.

Q. Well, what difference is there in principle, Dr. Britnell, in looking for part of your assistance when you need it, than when you look for it all if you need it?

A. Well, there is this material difference. We are not asking that the Statute be interfered with in any way, and we are asking merely that the statutory rates put through in recognition of the railways as instruments of national policy, be left where they are; and if any adjustments in terms of national policy have to be made, then let them be made in a way which does not disturb the grain rates in Western Canada.



Q. Have you given any thought to this problem: if an investigation were made into whether grain rates in themselves were just and reasonable, what the result would be?

A. I have given a good deal of thought to it, but the maze of facts is so complex that I find it very hard to visualize what the answer would be.

Q. Do you think that a study should be made by some competent organization or body to find out?

A. Whether the rates are - - ?

Q. In themselves are just and reasonable?

A. I don't think it is necessary.

Q. You don't?

A. No.

THE CHAIRMAN: Pardon me, would you tell us what you would mean by "just and reasonable"?

MR. SINCLAIR: I mean just and reasonable considered in accordance with the established principles of rate making.

THE CHAIRMAN: That is, to the shipper?

MR. SINCLAIR: And to the railways?

THE CHAIRMAN: To the consignees and to the railways.

MR. SINCLAIR: That is right, my lord. I take Dr. Britnell's answer to mean that he does not think a study is worthwhile, and that must, I take it, go on the assumption that even if they were found to be unjust and unreasonable, that would not bother Saskatchewan.

A. Unjust and unreasonable to everyone concerned?

Q. To the railways, the shippers and the consignees.

A. If they were found to be just and unreasonable--





Q. Unjust and unreasonable.

A. Unjust and unreasonable. As I said this morning, if they are below, taken along with other rates - -

Q. No, no, I said in themselves.

A. Well, we want - -

MR. MacPHERSON: Let the witness answer.

MR. SINCLAIR: Mr. MacPherson, I am asking him to deal with grain rates by himself, and he is quite competent to look after himself.

MR. MacPHERSON: I know he is quite competent, but when you proceed to interrupt him in the middle of an answer that he is giving, then as counsel I am going to see he has that opportunity.

THE CHAIRMAN: We had better hear the answer. If it does not respond to your question - what is your answer to that question?

A. Well, I don't like to go over ground that I did cover this morning, but I would like to say again that the West refuses to look at the grain rates alone; that they want to take the broad national approach, the overall picture.

THE CHAIRMAN: Well, your Briefs here all make that very clear.

A. Yes, I think so.

THE CHAIRMAN: Now, Mr. Sinclair, do you find fault with that approach?

MR. SINCLAIR: Quite so. I mean that is something for me to argue, my lord, I understand that, but I just want to point out just how far these witnesses are going in this matter of grain rates.

THE CHAIRMAN: Well, don't their Briefs show all this?



MR. SINCLAIR: I think maybe Dr. Britnell has gone a little farther in a couple of cases.

THE CHAIRMAN: The evidence is already in.

MR. SINCLAIR: I quite understand that, my lord. We feel this is a tremendously important matter and we have to get the complete attitude of Dr. Britnell who has had many weeks in which to consult with the Governments and their technical advisers.

THE CHAIRMAN: Well then, what is your immediate question?

MR. SINCLAIR: I asked him to treat grain rates by themselves and look at them from a just and reasonable level to the railways along with other shippers and consignees. He tells me that the West refuses to do that.

Now, if I understand the position, the answer is that they want some special consideration in dealing with grain rates?

A. No, I am afraid you are misunderstanding my answer.

MR. SINCLAIR: And that they are not prepared, Mr. Chairman (and this would be my argument) to look at grain rates on the merits, and that is the position that I see from the evidence of the Prairie Provinces as put forth by Dr. Britnell.

THE WITNESS: May I say something to that?

THE CHAIRMAN: Yes, do you object to that?

A. I object to that interpretation. I think our position does not arise from an obstinate perversity in error or in malice or anything else, that we refuse to look at this picture in this way. We say you cannot look at this picture in terms of just grain rates; that since



the railways are instruments of national policy, were designed as instruments of national policy, then you cannot take grain rates out of the overall railway picture. That is our position.

THE CHAIRMAN: Do you take the opposite position, Mr. Sinclair, that national policy should not be looked at, that these rates should be dealt with simply on the ordinary basis of the value of the service by the railway to the shipper?

MR. SINCLAIR: Yes, my lord, my view on behalf of the Canadian Pacific - -

THE CHAIRMAN: Having remained just and reasonable. We always come back to the shipper and to the railway and the consignee, and you can reach the consignee.

MR. SINCLAIR: Yes, the position I take, my lord - -

THE CHAIRMAN: That is to say, should be detached entirely from any wider consideration.

MR. SINCLAIR: Well, my lord, there is always a relationship.

THE CHAIRMAN: That is what Dr. Britnell says, you see.

MR. SINCLAIR: There is always a relationship between the cents per hundred pound for the movement, between comparable commodities. I say that by fixing them by statute they must go out of relationship with other rates.

THE CHAIRMAN: Well, that is a different thing.

MR. SINCLAIR: I say that they should remain





in relationship and no particular or unusual condition should surround the grain rates and the fixing of grain rates.

THE CHAIRMAN: That is an argument against statutory rates only.

MR. SINCLAIR: Quite so.

THE CHAIRMAN: On principle.

MR. SINCLAIR: That is right. I understood that is the difference.

THE CHAIRMAN: That is right, I am not finding fault with you. I am just seeing where you are heading to. You have other grounds there too.

MR. SINCLAIR: Yes.

THE CHAIRMAN: In your Brief.

MR. SINCLAIR: Oh, yes.

THE CHAIRMAN: Pages 188 and 189.

MR. SINCLAIR: I am just dealing with Dr. Britnell on the first part of the Brief and that is the historical matters.

THE CHAIRMAN: All right.

MR. SINCLAIR: The basic proposition that we are putting forward of course is that national policy in relation to agriculture should not be allowed to maintain unjust and unreasonable rates for one segment of the traffic moving over the railway.

THE CHAIRMAN: Yes, without compensation, is that what you say? And you say you don't want compensation.

MR. SINCLAIR: We say, my lord, that the rates should be just and reasonable, and if the farmers of



Western Canada require assistance, then they should get it from the Government if it is necessary in the national interest.

THE CHAIRMAN: That the Government should not use railways to provide this assistance to the farmers and then compensate the railways? You say that is a false way of approaching it?

MR. SINCLAIR: Yes, we say it is an uneconomic way of dealing with the matter.

THE CHAIRMAN: In other words, you of course, are against the principle of the Maritime Freight Rates Act?

MR. SINCLAIR: Oh, yes, we made that clear in our Brief, these rigidities in it and disabilities in it, that we therefore take the position that it should not be extended. I think that is all I have for Dr. Britnell, thank you.

THE CHAIRMAN: Now, there may be somebody else? Are there any other questions?

RE-EXAMINATION BY MR. MacPHERSON:-

Q. There are just two questions in re-examination then. Mr. Sinclair referred to the period from 1918-1921, a period when there was an increase in acreage in Western Canada. Do you have knowledge as to whether or not during that period there was any real production effort made on the part of the Governments, Federal and Provincial?

A. That was a period where the Canadian Government was straining every nerve to maximize production.



Q. Do you remember whether or not, for instance, in the Department of Indian Affairs and similar Federal Departments, acreage of land was brought under cultivation that had not been under cultivation before?

A. Yes.

Q. Now, I don't think we have on file a copy, my lord, of the actual agreement between Her Majesty and the Canadian Pacific, the Crow's Nest agreement. I have a copy here, and I propose to have copies filed tomorrow, but in answer to questions this morning - -

THE CHAIRMAN: Pardon me, Mr. MacPherson, have you with you the Act which validated it?

MR. MacPHERSON: Yes, well, that Act, as a matter of fact is attached to the submission which was in this morning. That is right there, my lord, but this is the actual agreement.

THE CHAIRMAN: The agreement itself.

(Page 19281 follows)





MR MACPHERSON: Q. This morning Mr. Sinclair asked you whether or not at the time this contract was entered into there was any contemplation of a Board of Transport or Board of Railway Commissioners or anything of that nature. Now I want to refer you to the ninth paragraph in the agreement, the actual agreement. It is not in the statute, my lord.

A. No, it is not in the statute.

MR MACPHERSON: This is the agreement, and I will read it, and I will file copies of the agreement tomorrow.

"That so soon as the said railway is opened for traffic to Kootenay Lake, the local rates and tolls on the railway and on any other railway used in connection therewith and now or hereafter owned or leased by or operated on account of the Company south of the Company's main line in British Columbia, as well as the rates and tolls between any point on any such line or lines of railway and any point on the main line of the Company throughout Canada, or any other railway owned or leased by or operated on account of the Company, including its lines of steamers in British Columbia, shall be first approved by the Governor in Council or by a Railway Commission, if and when such Commission is established by law, and shall at all times thereafter and from time to time be subject to revision and control in the manner aforesaid."

It is in the statute too. I was referring to the agreement, but it is also (c), as Mr. Frawley points out, of the statute itself.

Q. In any event, at that time there was in contemplation the establishment of the Railway Commission, which was not established until 1903?



A. Yes.

Q. And that agreement was the same agreement which provided in clause 11 for the reduction in grain rates to which we referred this morning?

A. Yes.

Q. And to the fact that they were to remain in force in perpetuity?

A. Yes.

Q. Thank you.

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q HU HARRIES, Called.

MR FRAWLEY: Mr. Harries, my lord, will put into evidence Part II of the brief, which begins at page 21.

MR SINCLAIR: Are you using the mimeographed brief, Mr. Frawley?

MR FRAWLEY: Yes. This section of the brief, my lord, runs to something under ten pages.

THE CHAIRMAN: You are talking of the typewritten brief?

MR FRAWLEY: Yes, the mimeographed section, Part II, beginning on page 21.

EXAMINED BY MR FRAWLEY:

Q. Mr. Harries, you are responsible for Part II of this joint interprovincial brief?

A. Yes.

Q. Joint submission. Will you please proceed to put it into the record by reading it?

A.

PART II

ECONOMIC IMPLICATIONS OF THE CROW'S NEST

PASS GRAIN RATES

Part I of this Submission has analyzed certain



historical aspects of the Crow's Nest Pass Agreement and Rates. In that Part it was pointed out that the Crow's Nest Agreement was one of the important elements of the National Policy and that it remains today inextricably bound up with other elements of that same policy including the tariff, east-west trade, and the development of the prairie economy. In this Part we are concerned with certain arguments which seek to prove that altered conditions no longer find the Crow's Nest grain rates a suitable means for serving the ends of National Policy. In particular the disabilities allegedly resulting from these statutory rates will be analyzed.

One of the issues which has been raised by the opponents of the Crow's Nest rates concerns their removal from the jurisdiction of the Board of Transport Commissioners. It has been argued that it is not only wrong in principle but detrimental to sound rate-making and to the efficient operation of a railway undertaking to remove from the jurisdiction of the Board a part of the rate structure.

That argument is to be found at page 152 of Part I of the Canadian Pacific Railway's submission.

It can be agreed that railway rate control in Canada has been directed to the prescription of certain minimum requirements <sup>for</sup> just and reasonable rates.

MR FRAWLEY: Will your lordship notice that change -- "minimum requirements for just and reasonable rates."

THE CHAIRMAN: Instead of "conditions of".

MR FRAWLEY: Yes.

THE WITNESS: Here I would wish to refer the Commission to page 13192 of volume 63 of the transcript, where---

THE CHAIRMAN: Q. Volume 63, page what?

A. 13192, where Mr. Evans said, among other things:

" . . . our rates having had the approval as to the





standard rates under Section 330 are, prima facie, just and reasonable rates."

MR SINCLAIR: Once again, Mr. Chairman, I thought we were dealing with grain rates. I said this morning, and I think it is very clear, that in regard to these grain rates the Canadian Pacific's view, and the position that they are putting forward, is that we would make our application to the Board and the Board would first approve, and we are not dealing with them in the ordinary commodity rate sense at all. That was made very clear.

THE CHAIRMAN: Well, you have said in your brief---

MR SINCLAIR: And you asked for clarification, my lord, and we gave it to you.

THE CHAIRMAN: We had better see what it is again. What page is it on?

MR SINCLAIR: Page 189, my lord, of Part I. The paragraph reads:

"Before fixing the rates on grain and grain products in Western Canada, Canadian Pacific would expect a most thorough and detailed study by the Board. In developing the cost of handling grain in Western Canada Canadian Pacific has voluminous working papers. These can be made available to the Commission if desired, and of course, would be available to the Board on any study that they may undertake."

THE CHAIRMAN: Does that not have in mind, though, a study by the Board as to costs only?

MR SINCLAIR: Yes, that is right. To fix the just and reasonable level of grain rates the company is taking the position that the Board would make a study into the cost of moving grain, and that---

THE CHAIRMAN: In order to provide you with what you call a compensatory rate.



MR SINCLAIR: Yes, and to give us something over that.

THE CHAIRMAN: That is, the Board then would not have any of the discretion which of course Parliament has, to consider national and economic matters that might be necessary to consider.

MR SINCLAIR: In fixing the rate?

THE CHAIRMAN: Yes.

MR SINCLAIR: Oh, they would not give reflection to that.

THE CHAIRMAN: That is what I say. The rates at present are controlled by Parliament, and you would take them down to the Board and the Board would have to consider these rates just on the cost basis.

MR SINCLAIR: Yes. Of course, my lord, it would go on this basis, that the railway would make an application to the Board to fix a rate on grain, and in support of it they would bring forth some evidence as to cost, because the rate that they would propose would be a rate that would cover their cost of movement plus something to other expenses. Now, exactly how much more than the cost they would ask for would be in exercise of their judgment as to what deterrent there would be on the free movement of grain by fixing a rate at a certain level.

THE CHAIRMAN: I see you put one limit on yourselves there, where you say that Canadian Pacific would not expect nor would they ask for rates as high as obtain in Western United States.

MR SINCLAIR: Oh, no.

THE CHAIRMAN: For the same or similar distances.

MR SINCLAIR: No.

THE CHAIRMAN: You put that limit on yourselves. Well, that is your machinery, anyhow.



MR SINCLAIR: But the point I make to Mr. Frawley is---

THE CHAIRMAN: I understand; that is part and parcel of your case. You say, now, let the Board determine these rates on this what you might call technical basis, and then if in addition to that national policy requires that some relief be given, that would be given to the producers and not to the railways. That is your whole policy.

MR SINCLAIR: Yes.

COMMISSIONER INNIS: And Mr. Evans made some statement to the effect that he was opposed to any flexibility of rates, because one could think of a situation of a large crop with high prices or a situation of a low crop and low prices, in which presumably the burden of the rates would vary greatly; but you are not willing to recognize that sort of situation.

MR SINCLAIR: Well, if the Board took into account the need to move the crop freely -- and I think it must take that into account -- and the rate was acting as a deterrent on that movement, on account of some fluctuation in price, Dr. Innis, I think that they could quite properly do it, but not other than that. Other than that, our position is that is is a matter for Parliament, if one segment of the economy requires some special assistance, and that they should not get that assistance at the expense of either the shippers or the railways. But the major point that I wish to make right at the moment is that, while we expect a commodity rate on grain and would apply for a commodity rate on grain, it would be a commodity rate that would be first approved by the Board, and the Board would have complete control over that commodity rate, and it does not come into that aspect of a commodity rate that Mr. Frawley is





now discussing with Mr. Harries. I thought that might be helpful and might clear things up.

THE WITNESS: If I may say a word, sir, the reason that we gave the reference there was to qualify the statement that we had made that it was the prescription of certain minimum requirements. Now, it was not with grain rates in mind at all that we were making this particular reference; it was simply to indicate the kind of approach the Board of Transport Commissioners made to this problem of just and reasonable, with rates in general. That was the only reason for bringing it in at this point.

MR SINCLAIR: Q. It does not apply to grain rates?

A. Inasmuch as they are one of the rates that in your submission would be under control of the Board of Transport Commissioners, it would, I should think.

MR FRAWLEY: At page 13192 of volume 63 Mr. Evans said:

"Now then, on this matter my submission would be, and I would like perhaps at some time later to develop this, but I think the point ought to be made that our rates having had the approval as to the standard rates under Section 330 are, prima facie, just and reasonable rates."

Now, my short answer to what Mr. Sinclair has been saying, my lord, is that I know of no instance at all under the Railway Act, I know of no provision under the Railway Act, whereby the Canadian Pacific makes an application to the Board to fix a just and reasonable rate. Now, that is a totally new concept, and we argued this all out at the time that this position was taken before, and I said there would have to be an amendment to the Act, and perhaps there could be an amendment to the Act, and perhaps the



Canadian Pacific would go so far as to say, Well, if there needs to be an amendment to the Act we will make one, but we want to assure the people of Western Canada that we will have this rate fixed by the Board. They won't be left entirely to the mercy of the Canadian Pacific. We will ask the Board to fix a just and reasonable rate." And, as I say, without stopping to argue it out now, I simply say that at the moment there is no such machinery under the statute at all.

MR SINCLAIR: That is part of our submission.

THE CHAIRMAN: Mr. Evans said that he would agree to legislation being necessary.

MR SINCLAIR: That is part of our submission, in this respect, that there would be that condition. Now, I do not know why my friend is trying to find some comfort in something else. Our position is clear on the record.

MR MACPHERSON: Are we to understand from what Mr. Sinclair has now said that to some degree the Board of Transport shall be a planning board in respect of grain?

MR SINCLAIR: Here again, I do not know why my friend Mr. MacPherson says things like that. We are definitely on record that we do not want the Board of Transport Commissioners to be a planning board.

MR FRAWLEY: You may not want them to be, but you are going to make them that -- make this application to them. Nothing is clearer than that, surely.

MR SINCLAIR: If Mr. Frawley wants to argue this point now, I will be very glad to do it. I just thought that it would assist him, but apparently he does not want to be assisted, to have the position of the Canadian Pacific clearly stated, so that there would not be a waste of time.

MR FRAWLEY: Well, if it is clearly stated, you are not stating it very clearly, so it is no assistance to me at



all.

MR SINCLAIR: It is very hard for Mr. Frawley to understand.

MR FRAWLEY: Q. Now, Mr. Harries, will you get on, please?

That is all I want to say at the moment about it, my lord.

Now, Mr. Harries, will you go ahead?

A. The procedure adopted in 1903, when the Board of Transport Commissioners was formed, remains substantially unaltered and establishes only the maximum rate schedules. This has permitted the railways to fix many rates at a level below the approved maxima.

There are two references I would like to make here. First of all, with regard to the first part of that statement, about the procedure adopted in 1903, volume I of the Canadian Pacific submission, at page 144, states that: 'since the first Canadian Railway Act regulation has not basically altered. That is paraphrasing it; that is not quoting it.

Q. The actual words are:

"Since the first Canadian Railway Act, regulation of Canadian railways has not basically altered, although the trend until about twenty-five years ago, was one of expanding government control. Since 1925 there have been no major extensions of Government regulation of railways in Canada; nor, however, has there been any major diminution of the amount of control exercised."

A. Then with regard to the last sentence, the level below the approved maxima, Mr. Jefferson said, at page 16110 of volume 81 of the record, that the volume of traffic moving at standard mileage rates in Canada is less than

1. 1911-1912

2. 1913-1914

3. 1915-1916

4. 1917-1918

5. 1919-1920

6. 1921-1922

7. 1923-1924

8. 1925-1926

9. 1927-1928

10. 1929-1930

11. 1931-1932

12. 1933-1934

13. 1935-1936

14. 1937-1938

15. 1939-1940

16. 1941-1942

17. 1943-1944

18. 1945-1946

19. 1947-1948

20. 1949-1950

21. 1951-1952

22. 1953-1954

23. 1955-1956

24. 1957-1958

25. 1959-1960

26. 1961-1962

27. 1963-1964



five per cent.

The railways have enjoyed a wide latitude in their rate-making power. As a consequence, for the past fifty years--

THE CHAIRMAN: Q. How did Mr. Jefferson express himself at that time? Would you please read it to me again?

A. "The volume of traffic moving at standard mileage rates between points in Canada is less than 5 per cent."

Q. Oh, yes, the volume moving.

A. Yes, sir.

The railways have enjoyed a wide latitude in their rate-making power. As a consequence, for the past fifty years a large segment of the rate structure has virtually been removed from the jurisdiction of the Board.

MR FRAWLEY: Might I interrupt the witness just to put that reference clearly and fully on the record? At page---

MR SINCLAIR: What has it to do with grain rates?

MR FRAWLEY: At page 16110 of volume 81 Mr. Jefferson said:

"A. No, sir. We have already said that the volume of traffic moving at standard mileage rates between points in Canada is less than 5 per cent.

Q. That is right. That is the over-all picture?

A. Yes, sir."

Q. All right, Mr. Harries.

A. Then, commenting upon that last statement, I would like to refer to volume 17, page 3265, of the transcript, where a letter from the Secretary of the Board of Transport Commissioners was placed on the record by Mr. Brazier. One part of the letter says as follows:

"The Board's powers are necessarily limited to questions of unjust discrimination in regard to competitive rates and not as to the reasonableness of the rates."

Except for the approved maxima this segment has



been under the direct control of the railways. Talk of a wrong principle cannot be entertained especially when such talk stems from railways vociferous in demanding wide rate-making power for themselves.

It is agreed that the Board of Transport Commissioners is not today, and should not be made, a National Planning Board. Indeed, it is apparent from certain Statutes and decisions that the functions of the Board do not include economic planning and resource development. The significance of this cannot be overlooked as far as the statutory rates on grain are concerned.

As to the reference to certain statutes, I would refer to the Maritime Freight Rates Act as an example, and as to decisions, the citation in footnote 2 is incorrect. It should read Fraser Valley-Surrey Farmers Co-Operative Association v. C.P.R. and C.N.R., 1935, and it is found in 43 C.R.C. 97; also there is a quote from that decision, from pages 121 and 122 of the decision on the present record at page 10<sup>5</sup>91 of volume 55.

MR FRAWLEY: Let us be sure now of that correction. The name of the case, my lord, is Fraser Valley-Surrey Farmers Co-Operative Association v. C.P.R. and C.N.R., and, if you will just be good enough to strike out the citation there, the citation is 1935, 43 Canadian Railway Cases, page 97.

THE WITNESS: The production and marketing of grain in Western Canada is of crucial importance to regional and national welfare, as Part I of this Submission has indicated. It is of such importance that the economic policy applicable thereto has been the direct and continuing concern of the National Government.

I would like to refer there to chapter 3 of the book of the Rowell-Sirois Report, and also to a part of a sentence which occurs in P.C. 886 of 1925, where it is



stated:

"The Committee are further of the opinion that as the production and export of grain and flour forms one of the chief assets of the Dominion . . ."

THE CHAIRMAN: Q. Where is that?

A. That is P.C.886, sir.

MR FRAWLEY: It is Exhibit 134, sir, in this case, and Mr. Harries is referring to the recitals.

THE CHAIRMAN: You are referring to two things. First, the Sirois Report, what volume?

MR FRAWLEY: The reference there, sir, is Book 1, chapter 3.

MR O'DONNELL: What page?

THE WITNESS: It is at page 66 of book 1, sir.

THE CHAIRMAN: Then what is the other reference?

MR FRAWLEY: I would like to get the other reference actually and read it to you, sir. It is on page 43 of Exhibit 134, which is P.C. 886, of the 5th June, 1925. It is the Order in Council which set up the General Investigation of 1925-27, and the paragraph to which the witness is calling attention---

THE CHAIRMAN: You mean a freight rate revision, do you?

MR FRAWLEY: It is the General Freight Rate Revision of 1925-27.

MR O'DONNELL: 17 J.O.R. & R., page 31.

MR FRAWLEY: It is an Order in Council with directions to the Board, but it was quite a long Order in Council, and the paragraph to which we are calling attention is at the bottom of page 3 of the mimeographed copy which has been put in as Exhibit 134. It reads:

"The Committee are further of the opinion that as the production and export of grain and flour forms one



of the chief assets of the Dominion, and in order to encourage the further development of the great grain growing Provinces of the West, on which development the future of Canada in large measure depends, it is desirable that the maximum cost of the transportation of these products should be determined and known, and therefore are of opinion that the maximum established for rates on grain and flour, as at present in force under the Crow's Nest Pass Agreement, should not be exceeded."

THE CHAIRMAN: Mr. Frawley, we will adjourn for a few minutes.

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(Recess)

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(Page 19293 follows)





--After recess.

MR. FRAWLEY: Q. Yes, Mr. Harries, you were at page 22.

A. Continuing the brief:

The transportation charges on grain, as part of the marketing problem, are an integral part of such economic policy and --

THE CHAIRMAN: Where is this?

MR. FRAWLEY: The second paragraph on page 22.

THE CHAIRMAN: Page 22?

MR. FRAWLEY: The end of the paragraph, my lord.

Q. Will you go on from where you left off, Mr. Harries?

A. Yes. To continue:

-- have been, and continue to be, positively integrated with the other elements of such policy.

Direct government action aimed at implementing broad national policies cannot be circumscribed by the demand to have segments of that policy determined by an appointed tribunal unless it can be conclusively demonstrated that in the absence of such delegation the efficiency of the tribunal itself is seriously impaired.

Then if I may, sir, I should like to take the next two paragraphs or the next three paragraphs as read. They deal with land-grant rates.

THE CHAIRMAN: Q. I see that the word "segment" is used here. The railways say that these rates are a segment of the whole rate structure, and you say that they are also a segment of the national policy. Is that right?

A. Yes, sir.

-- The paragraphs referred to are as follows:

Before discussing arguments which seek to show that in the absence of a delegation of power such as that already referred to, the Board is unable satisfactorily to perform its functions, there is one other matter dealing with



the general principle which should be mentioned. In support of the attack upon the principle of removing from the jurisdiction of the board a segment of the rate structure, the experience in the United States with the so-called land-grant rates has been put forward. Indeed, it has been suggested that the inherent wrong of having certain rates removed from the control of the administrative tribunal was recognized by the United States Congress when the statutory reduction resulting from the land-grant provisions in the Interstate Commerce Act was repealed in 1945. (3)

The reasons for repealing the land-grant rate provisions in the United States do not support any argument about incorrect principles. These rates were altered for very practical reasons, not on a consideration of principle. The primary reason for repealing the land-grant rates was that Congress considered that they had served their intended purpose. Secondary reasons such as the ever increasing extent of government traffic, the practical difficulties of determining land-grant reductions, the discrimination created between different government contractors and the discrimination created between different railways were also of importance.

While these reasons may have been good and sufficient in the United States, they have no relevance to the Canadian situation. Land-grant rates may have served their purpose in the United States, but the same cannot be said of the Crow's Nest grain rates.

MR. FRAWLEY: Q. Then we are at page 23.

A. A. The beginning of the third paragraph.

Q. Beginning with "The necessity"?

A. Yes.

Q. Before we leave that word "segment" --

THE CHAIRMAN: I think it is a very useful word.

(3) See Submission of Canadian Pacific Railway Company, Part 1, p.152



MR. FRAWLEY: Q. Before we leave that word "segment", I want to know if there is any difference in the use which is made of it in your brief and the way in which the railways make use of it in speaking of a segment of the rate.

A. I am not sure that it is the same segment. We are talking of transportation costs as one segment of the economic policy which must be dealt with in connection with the marketing of grain. They speak about land-grant rates as a segment of the rate structure, as I understand it.

Q. You are going now to what page of your brief, did you say?

A. To page 23, the beginning of the third paragraph:

The necessity for statutory grain rates is as strong, if not stronger today than it was when they were originally implemented. It has frequently been pointed out that the basic agricultural problem in Western Canada results from instability and a one-crop dependence. When the national economy had a tendency to flexibility, in the sense that institutional rigidities were of minor importance, the economic burden of the western grain producer was much less acute than it is today. All the major aspects of our economy with the notable exception of agriculture are now predominantly rigid.

May I say that the rigidity which is present in manufacturing industries particularly I think is apparent; but to some extent the other basic industries such as lumbering and mining are not as absolutely rigid as the general manufacturing industries, for instance, and to that extent the last sentence would be qualified.

The implications of rigidity for the western farm economy are highly significant. The prairie farmer competing in the world market is the first to feel the impact of income reduction.





At the same time the costs of the things which he purchases are the last to decline. A national economy relying to an important extent upon agriculture as it did in the late nineties, exhibits a tendency to sympathize with agricultural welfare. Today that is not the case. Production instabilities due to drought and other physical factors, and precipitous price changes, do not find a sympathetic reaction in the non-agricultural segments of the economy.

There is an index of farm and non-farm product prices which would I think bear out the statement that there is a rigidity in the non-agricultural segment and a lack of sympathy lately with the price movements in the agricultural segment. Taking an index which has been constructed on a 1926 base, you find that up to about 1920 the index of farm prices and non-farm prices moved in sympathy one with the other; but since 1920 there have been three periods in which the non-farm price has not shown what I would call a sympathy with the farm price. In 1923, for instance, there was quite a precipitous decline in the farm prices; it again reached bottom in 1932 and again in 1939. In all those instances when farm prices went down, the non-farm prices went down slightly or in one case they actually increased; so that, as I say, in that period before 1920 you find a sympathetic reaction in price changes in the general economy which is lacking under today's circumstances.

THE CHAIRMAN: All this is in addition to the brief, is it?

MR. FRAWLEY: Yes. I should like to file this price index as an exhibit. We only recently acquired this exhibit. It is a graph, and we shall have the required number of copies made. I should be glad if the Commission would be good enough to give it the next exhibit number which



I understand is 260. We will supply the Commission with the required number of copies.

THE CHAIRMAN: What exhibit will that be?

MR. FRAWLEY: Exhibit 260, I am told.

THE CHAIRMAN: What is it, or how will it be described?

THE WITNESS: The heading tells that, I think.

MR. FRAWLEY: It is index No. 5 farm and non farm prices, 1890 to 1948, on a 1926 base.

EXHIBIT 260: Filed by Mr. Frawley: Index of farm and non farm prices, 1890 to 1928, on a 1926 base.

MR. FRAWLEY: I may say that this graph was prepared by Dr. E.C. Hope of the Canadian Federation of Agriculture in January of 1949.

Q. All right, Mr. Harries.

A. There is also one comment which I should like to make in connection with this rigidity. I think "rigidity" probably is a poor word to use, because there is nothing more rigid than a statutory rate. But the ideals of resistance to price decreases in time of decreasing economic activity; and for that reason the rigidity which we talk of in grain rates is is sort of rigidity at the average; and that is I think the thing which we are after in connection with the statutory control of grain rates.

I shall now continue with the brief.

Q. You are reading now from the top of page 24?

A. Yes. I continue:

It has frequently been pointed out that the burden of freight rates varies in different sections of Canada. There are a number of reasons for this, Important among these are the differing competitive conditions which exist. As is well known, the railways in eastern Canada have a maximum placed on many of their charges by the operation of water and truck competition. For fifty years the effects of water competition, and lately of truck competition,



effects of water competition, and later of truck competition, have been extensive and have served to reduce many of the rates to something much less than the normal tolls. These competitive rates make a smaller contribution to railway costs than the normal tolls would make.

And here I would refer the Commission --

THE CHAIRMAN: Q. When you say "normal tolls", do you mean the standard rates?

A Yes, or the non-competitive rates which would apply in their absence.

Q. The standard rates, we are told, account for less than five percent of the total traffic. You would not call them normal tolls then, would you?

A. I think the better word than "normal" would be "non-competitive tolls" which would include standard and the non-competitive commodity rates.

In the C.P.R. submission, Volume 1, at page 199 --

THE CHAIRMAN: This is another diversion from the brief, is it?

MR. FRAWLEY: Yes, my lord.

THE CHAIRMAN: What he is about to say?

MR. FRAWLEY: Yes. What the witness is now referring to is page 199 of Part I of the Canadian Pacific brief.

Q. Will you continue, Mr. Harries?

A. They point out that the annual deficit incurred by the government from 1939 to 1948 in the operation of canals was \$13,808,657. I just put that in there to indicate that the maximum which is placed on many of the railway charges in eastern Canada is affected by that government expenditure. Then there is also the fact that must be kept in mind here that the effects of water-borne competition are spread very generally throughout eastern Canada and are not confined to places in which there is





water competition.

THE CHAIRMAN: Q. We had all that.

A. Yes. To continue:

The Crow's Nest grain rates in western Canada were in part the result of a deliberate attempt by Parliament to compensate the prairie region in some measure for the lack of competitive transport. Given a complete equalization of standard and non-competitive rates there would still be a substantial difference in the mile for mile charges paid by traffic in the various sections of Canada.

MR. FRAWLEY: Q. I would ask your lordship to notice the change that has been made; "mile per mile" should be "mile for mile". Will you continue, Mr. Harries?

THE WITNESS: Yes.

Any determination of whether grain rates should remain statutory must take cognizance of this fact.

Although it has been suggested (4) that statutory rates insinuate themselves beyond the intention of the Statute, this cannot be a serious impediment.

MR. FRAWLEY: Let me stop you there, Mr. Harries. Did your lordship wish to ask a question?

THE CHAIRMAN: It is all right. I was just wondering whether you could imagine water competition all the way through the prairies, and if it existed, what would the railway rates be, and so on. But that is an undue intrusion of imagination.

MR. SINCLAIR: Maybe it would help if I suggested that where there is water competition, the rate for a thousand miles from Fort William eastbound could be very usefully provided, along with the rate for a thousand miles on the Crow's Nest rate.

MR. FRAWLEY: How is it from the bay ports or what you call your at and east rates?





THE CHAIRMAN: Pardon me, but you are alking about rates on grain?

MR. SINCLAIR: Yes.

THE CHAIRMAN: That operate when water does not operate?

MR. SINCLAIR: I will take the rate that is operating even when water is there.

THE CHAIRMAN: Very well.

THE WITNESS: I was referring here not to the rates which apply on grain in the presence of water competition but to the fact that water competition keeps all rates down; in particular rates in Eastern Canada. If you did get an equalization such as was proposed by Alberta, for instance, where you had no equalization in the competitive rates, you would still have a very large difference in the mile for mile rates which apply because of the existence of that competition.

To continue: Although it has been suggested (4) that statutory rates insinuate themselves beyond the intention of the Statute, this cannot be a serious impediment. It is alleged that bran and middlings and other by-products of the milling industry are carried at Crow's Nest Pass rates because of the Statute. This is a half-truth. They are carried at the same rate as grain or flour because of the milling-in-transit privilege. The Statute established the maximum rates on grain and flour, but the milling-in-transit privilege determines the relationship between grain and flour, and milling by-products. The cost of extending the Crow's Nest Pass rates to such things as brewers' and distillers' dried grain and beet pulp residue is infinitesimal.

I mention these things because they were mentioned in the C.P.R. brief.

(Page 19308 follows)



At this point I would like to refer to page 18082 of Volume 96 of the Transcript where Mr. Armstrong discussed the Vancouver differential in connection with the movement of the wheat from what I believe --

Q. The page again? 18082.

A. What he called the region within which the Vancouver rate is less than the Fort William rate.

Q. Yes, Mr. Armstrong said at 18082:-

"The Government, I believe, out of the total fund of the Canadian Wheat Board -- oh, I am sorry. I must alter that. I should say out of the fund of the Agricultural Prices Support Board. That is right.

Q. What happens?

A. The Government takes the money so that the man in Calgary, whose wheat goes to Fort William instead of to Vancouver, does not lose the 3 cents extra which it costs to move it to Fort William.

Q. It is refunded to him?

A. Yes, it is refunded to him through the Wheat Board but not through the railway."

That is what you had in mind?

A. The Wheat Board has followed the policy of assuming that all wheat which originates within the Vancouver shed as it were, comes to Vancouver. As a matter of fact, of course, a volume of it goes to Fort William, and these figures which were tabled in connection



with a question asked by Mr. Wright in the House of Commons, are given in Hansard of Monday, October 31, 1949. They give some figures for during the war which I will not quote, but the figures for 1945 to 1948 indicate that in 1945 the additional freight paid because of this Vancouver differential was \$150,353.

MR. SINCLAIR: What year was that?

THE WITNESS: 1945.

MR. SINCLAIR: War years, no traffic.

THE WITNESS: If you will excuse me, I will give the other years in a moment if I may. That was a gross payment, but because of the fact that any wheat which is moved from Alberta to Fort William at the direction of the British because of the necessity to get it moved in a hurry or some other reason, is paid for, the excess freight is paid for and chargeable to them. Then some more of the wheat which goes from Alberta to Fort William is feed grain, and that extra freight is paid for not by the Agricultural Prices Support mechanism, but by the Department of Agriculture in a direct payment to the Wheat Board. So that the net freight paid by the Wheat Board as a result of this policy in 1945 was \$66,434; then in 1946 it was \$21,331; in 1947 it was \$16,674; and in 1948 it was \$24,084. We just wish to put these figures on the record to indicate the extent to which there were payments because of the fact that the Alberta wheat in some instances moved east and was paid on a basis of a westward movement.

It has been argued that the existence of statutory rates militates against the establishment of just and reasonable rates for traffic other than that which is handled at the statutory level.





This argument is premised on the assumption that grain rates under the Statute do not in themselves provide a satisfactory return to the carrier. If the grain rates pay their way, on a reasonably compensatory basis, the fact that they are fixed by the Statute cannot affect the just and reasonable character of other rates.

I think that general agreement with that last statement will be found at page 161, Volume I of the Canadian Pacific Submission.

THE CHAIRMAN: Yes, but you raised the question, if grain rates pay their way on a reasonably compensatory basis. Do you say they do pay their way on a reasonably compensatory basis?

A. I would say, sir, that that is an open question. The C.P.R. says that they do not pay their way, and I would say that I have not seen any conclusive evidence that they do not pay their way. But just arguing for the balance of this argument - or at least the whole argument is premised upon the fact that they do not pay their way. I just wanted to point that out, that was all, in that connection.

MR. FRAWLEY: Yes?

A. Incidentally - -

THE CHAIRMAN: Of course, you do state this, that if they pay their way upon a reasonably compensatory basis, then the fact that they are fixed by Statute cannot affect the just and reasonable character of other rates?

A. Yes, sir.

Q. You raised the question of whether or not they are reasonably compensatory there?

A. Yes.



Q. All right, you had better go on.

A. And just incidental to this reasonably compensatory basis idea, at page 12 and 14 of the Railway Association of Canada Brief, great stress was laid on the fact that the cost of haulage of basic commodities was lower because of this charging what the traffic will bear idea, than it would be if you charged them their actual cost. So that I would presume from that at least that the basic commodities are moved at less than what it costs.

THE CHAIRMAN: You used the word "cost" in one case, but I don't think you meant it. You said that the cost of hauling basic commodities was based on something. You meant the rate?

A. Yes, I am sorry, the rate.

As a result of a voluntary agreement the Canadian Pacific instituted certain maximum rates in perpetuity. Certainly the burden of the contract must rest on the contracting parties. If that be so, the question of unjust or unreasonable rates on other traffic should never arise. If there is a financial burden on the railway as a result of the contract, then such burden much surely fall upon the railway company and upon the shareholders thereof rather than upon any other traffic.

All increase applications by the railways have been premised upon their financial need. Such financial need is a result of the over-all operation of the railways and in the absence of a specific allocation to cover this contractual obligation, this procedure may have allowed the railways to shift that obligation to other traffic. If this be the case it cannot be used as an argument for removing the statutory grain rates.



Then with regard to shifting the obligation to other traffic, I think the Canadian Pacific Railway are obviously in some doubt about where the obligation presently rests, because at the top of page 161 of their Brief, they say:-

"After 1922 however, when the Crow's Nest Pass rates were restored, the probability is that the greater burden imposed by the low level of these rates has fallen upon shippers and consignees of other traffic."

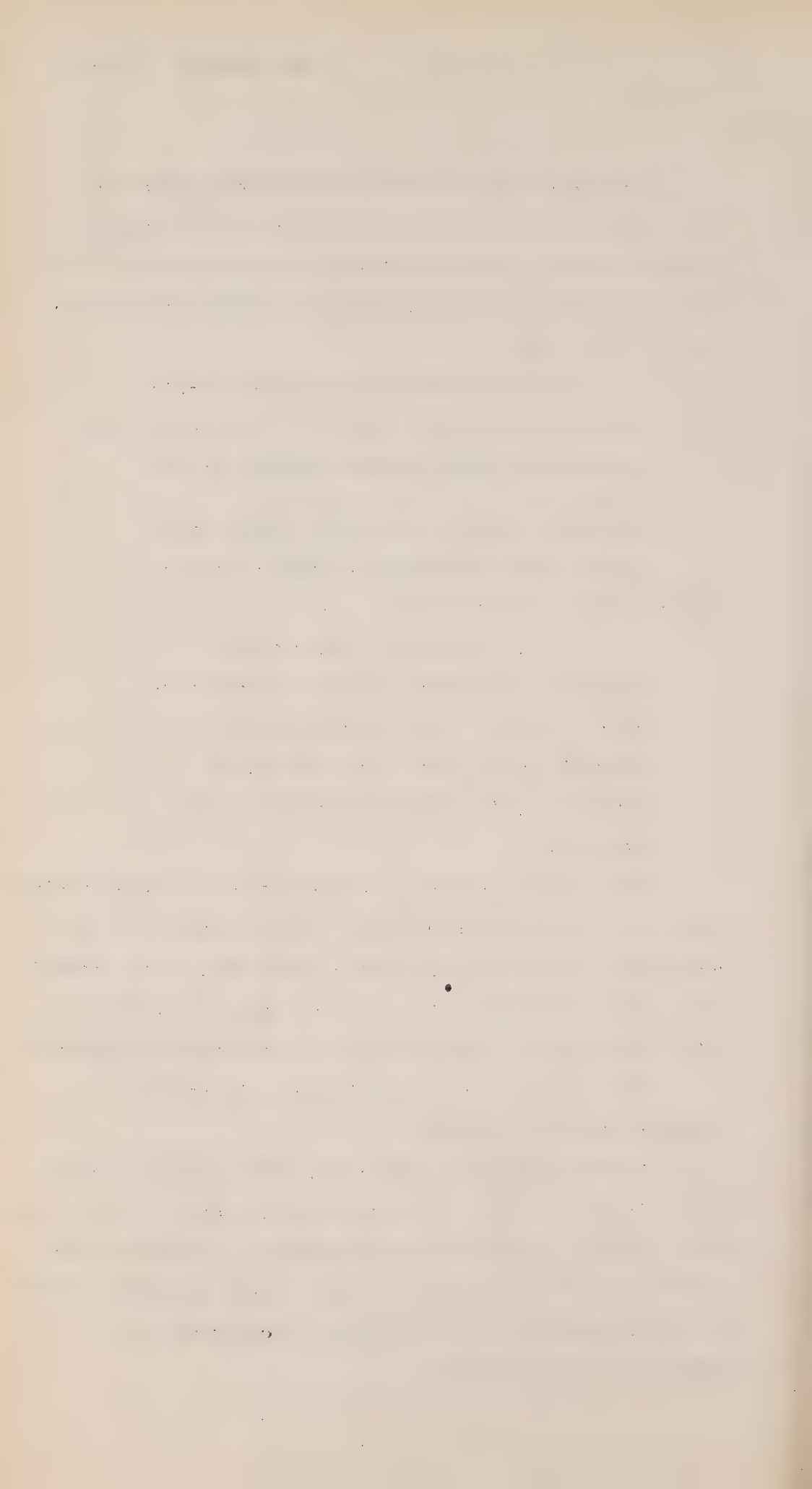
And then over the page at 163 :-

"If as is the case today or in a period of depression, rates are not maintained at such a level as to provide adequate net revenue, the subsidy is provided by the railways and their shareholders."

The relative position of statutory and non-statutory rates in the place of percentage increases must also be considered. Percentage increases apply only to the normal rates. Whether they apply or do not apply to competitive rates is within the competence of the railways to determine.

Once again, sir, I am not sure - by "normal" I mean non-competitive rates.

Recent history in connection with this particular matter is of interest. During the course of the 30 Per cent Case wartime restrictions on freight rate increases were removed by Order 757 of the Wartime Prices and Trade Board. The railways promptly filed tariffs increasing all competitive rates by 30%.



The railways suggested that a careful analysis of the competitive rate situation indicated that all competitive rates could take a 30% increase. At page 14115 of the Transcript of Proceedings in the 30 Per cent Case, a discussion between the Chief Commissioner and the counsel for the C.P.R. is recorded. For the railways it was stated:-

"Now, Mr. Knowles told your Board and Mr. Jefferson said the same thing, we are of the opinion that we could increase all rates 30%, including the competitive rates and that our competitors will be delighted if we do so because they are working under the same difficulties we are, their costs have gone up just as ours have, and they said, their considered opinion was, that they

(meaning Knowles and Jefferson) could increase those rates by 30% and still hold the traffic."

Notwithstanding this expressed view, when the 30% increase case was determined and a 21% increase granted in April, the competitive rates were increased only 21%.

Later in the same year the railways applied for an interim rate increase - -

THE CHAIRMAN: Pardon me, have we had any explanation of that?

A. I cannot say whether it has been explained or not.

MR. O'DONNELL: As I remember that, they were increased in fact 21% and 15% and many were increased much





more than that.

MR. MacPHERSON: He goes on to say that in the next paragraph.

MR. FRAWLEY: I know, but his lordship asked whether there was any explanation.

THE WITNESS: On April 8 as a result of the 21% increase, they were increased only the 21%, not the 30% as they said they could be about four months before.

MR. FRAWLEY: If your lordship was asking whether or not there was any explanation as to why they did not increase them 30% when the 21% Judgment was announced, I think the answer is there was never any explanation about it. Those are the rates which are within their own discretion, and then of course - -

MR. O'DONNELL: But they immediately increased 15% and in many cases more than the combination of 21% plus 15%. That is on the record many times.

THE CHAIRMAN: Is there any misstatement in this Brief, Mr. O'Donnell?

MR. O'DONNELL: I have not analyzed it very carefully, but I am saying that the situation is, as I remember it - -

THE CHAIRMAN: That:-

"During the course of the 30 Per cent Case wartime restrictions on freight rate increases were removed" and so on -

"The railways promptly filed tariffs increasing all competitive rates by 30%".

MR. FRAWLEY: That is correct.

MR. O'DONNELL: My friends objected to it, and then the issue was fought out, and as soon as it was fought



out the rates were increased by the 21% which the Board Order 70425 of 30th March 1948 permitted, and then they were increased an additional 15%, and many of them were increased much more than that combined amount.

COMMISSIONER INNIS: Mr. Harries will read the next paragraph.

MR. FRAWLEY: That is in the next paragraph.

THE WITNESS: Later in the same year - -

MR. FRAWLEY: Q. That is, of 1948.

A. Yes, sir, the railways applied for an interim rate increase of 15% and a total increase of 20%. On the strength of this anticipated interim increase many competitive rates were raised by 15% immediately.

I believe those increases went into effect on September 15, 1948, but I am not certain.

When the Board in September 1949 awarded an 8% interim increase following the hearings on the 20 Per cent Application, the railways did not apply any further increase to their competitive rates although some rates had not been increased by the 15%.

There is one rate in particular and I think it is Agreed Charge No. 14 which is the movement of petroleum products in Quebec, which is still as at April 1.

MR. O'DONNELL: That is an agreed charge, that is a contract.

THE CHAIRMAN: It is a contract there?

A. It is what the shipper pays, contract or no contract.

THE CHAIRMAN: But anyhow you should not mix it with competitive rates.



MR. O'DONNELL: Don't mix it up, that is all I am saying.

THE WITNESS: That particular charge is still at the level it was before the increases took place. It has not taken any increases to date.

MR. O'DONNELL: You may have forgotten the evidence in that connection. As I remember it, it was explained that it could not be increased beyond that in the judgment of the railways.

MR. FRAWLEY: I know. Of course, you see, my lord - -

THE CHAIRMAN: When you introduced an agreed contract, unless you made the terms of the contract, you did not know why the rate was so and so?

MR. FRAWLEY: Well, we were told, sir (I am speaking from memory) but in the record in the 21 Per cent Case (it may have been in the 20 Per cent Case) that that particular agreed charge which carries petroleum products in Quebec, was brought up, and the railways frankly told us that that was a rate which they just could not increase. The shippers said: "If you increase that rate the contract is over. We will put it in our own trucks" and the railways just couldn't do it for fear of discouraging their business. That is why, when you say "don't mix up competitive rates and agreed charges", well, really an agreed charge is essentially a kind of competitive rate. It is all brought about by the forces of competition.

THE CHAIRMAN: It is on account of competition; the railway, when it gets the whole or a substantial part of all the freight that this person has to ship?





MR FRAWLEY: Yes, it is an extension. They feel the competitive rate alone would not---

THE CHAIRMAN: Well, there has been so much said about it in a chapter by themselves, these agreed charges, hadn't we better leave them there?

MR FRAWLEY: Except the connection in which we use them, sir, I think---

THE CHAIRMAN: Automatically on a certain date all competitive rates are increased; they could not apply to all agreed charges.

MR FRAWLEY: When your lordship says that all competitive rates are increased at a certain date---

THE CHAIRMAN: You find there was an increase of 21 per cent, for instance, in competitive rates. You say that yourself there.

MR FRAWLEY: Yes.

THE CHAIRMAN: Now, you would not expect that increase to apply to all the agreed charges.

MR FRAWLEY: No, but I think what happened on that day, sir -- again speaking from memory -- they served notice of cancellation then on all their agreed charges, and set the machinery in motion to increase.

THE CHAIRMAN: Well, you may point that out.

MR O'DONNELL: Tried to get all they could by way of increase.

THE WITNESS: I would like to make it quite clear that we are not attempting to criticize the railways' actions here at all. We are just pointing out that there are some rates other than the Crows Nest rates which do not automatically take such percentage increase, and, as we say at the bottom, it does not necessarily militate against just and reasonable rates in that instance. I am just using these examples for the express purpose---



MR FRAWLEY: If you will read on, the brief goes on to develop the use that we are making of this discussion of competitive rates.

MR O'DONNELL: With the clarification the witness has now given, it is a little better than it was when he made the flat statement.

THE WITNESS: I am sorry I did not give that before, sir.

THE CHAIRMAN: There are many things going on now, it seems to me, which are properly argument, are there not?

MR O'DONNELL: Yes.

THE CHAIRMAN: At this stage we are hearing these briefs being read and explained.

MR FRAWLEY: Yes, sir. Well, this is our position, and we are open for cross-examination. If we kept it all for argument, sir, I suppose the railways might say---

THE CHAIRMAN: Well, you are adding very considerably to the printed brief.

MR FRAWLEY: Oh, yes, sir; we are interpolating, that is quite right, sir.

THE CHAIRMAN: So that these things, you see, we are hearing now for the first time; we have had no opportunity to read them.

MR FRAWLEY: That much is quite true, sir, yes.

THE CHAIRMAN: All right, go on.

MR FRAWLEY: Some of it comes in as a result of some of the evidence we have heard.

THE CHAIRMAN: Go on, Mr. Harries.

THE WITNESS: It is perfectly clear from the action of the railways in these increase cases that it is their intention to deal with competitive rates regardless of



the difference which exists between competitive rates and standard charges. Although some competitive rates have been cancelled or amended without regard to the percentage increases, the vast bulk of the competitive rates have increased only 7% more than the normal tolls. The absolute difference between these two types of rate is now much greater than it was prior to March 1948.

When that was written, sir, that statement was, I believe, correct, but since that time, the time when this was written, the standard rates have been increased a total of 16 per cent, and so the situation now is that the competitive rates have been increased less, that is, with the use of the percentage increases, than have the standard rates. The effect of that, sir, is shown in Exhibit 208, which was filed by Mr. Frawley.

THE CHAIRMAN: Q. Do you say that as things are now, competitive rates have been increased by 16 per cent?

A. No; they have been increased -- instead of where I say they have increased only 7 per cent more, it would be fair to say that they have been increased one per cent less than the normal tolls.

Q. What did you say about 16 just now?

A. 16, sir, was the last increase, which brought the 8 per cent and the 7½ up to a 16 per cent increase on standard tolls.

MR FRAWLEY: Q. Mr. Harries, to make it perfectly clear, just read the phrase again, in the light of the recent increase of 16 per cent in non-competitive rates?

A. The vast bulk of the competitive rates have increased 1 per cent less than the normal tolls.

Q. Have increased?

A. Yes.

MR O'DONNELL: Q. Dollarwise or in amount?





A. Percentage .

MR FRAWLEY: Percent, is what we say.

Q. All right, Mr. Harries.

A. It is apparent, therefore, that there are great differences between classes of non-statutory rates. As far as the percentage increases are concerned, the fact that the competitive rates do not automatically take them does not necessarily militate against the establishment of just and reasonable rates on other traffic.

Although the current concern is with the problem of increases, it must be remembered that in the event of decreases the grain rates would remain at their present level. It has already been emphasized in the concluding section of Part I that the farmers of Western Canada have paid proportionately more in one period and proportionately less in another because the transportation charges on grain have remained fixed.

It has been suggested that a rate established in 1897 is 'obviously an unreasonable one---

MR FRAWLEY: If you will change the words "prima facie" to "obviously", my lord.

Q. Yes?

A. -- under today's conditions -- and I put a period there, and footnote 6 comes at that point, and delete the rest of the sentence.

MR FRAWLEY: The sentence ends at "today's conditions", and footnote 6 is put in after the word "conditions", and the rest of the sentence is deleted.

MR SINCLAIR: That is quite a change.

MR FRAWLEY: Well, that is what we are doing.

THE CHAIRMAN: You finish your first sentence after the word "conditions".

MR FRAWLEY: Yes, my lord.





THE CHAIRMAN: Then you start a new one.

MR FRAWLEY: We end there, and we strike out "and an attempt has been made to leave the impression that the grain rates are unique in this regard." Then we start again, and we also strike out the sentence, "Nothing could be further from the truth." So the brief resumes then at, "There are rates . . ."

MR O'DONNELL: "Nothing could be further from the truth" -- that is out.

THE WITNESS: There are rates today which move traffic at a charge below the level which pertained in 1897.

THE CHAIRMAN: Q. Have you provided any samples of such rates?

A. Yes, sir, there are rates in the interior of B.C., for instance, which in 1897 were twice the prairie standard mileage between Revelstoke and Canmore, and today are at a lower rate than they were in 1897; and then where you have transcontinental competitive rates, and I think the canned goods rate is an example of that, those rates are below what they were in 1897. Those are two samples. I would be surprised if there were not a number of competitive rates which are actually below the level which that particular traffic paid in 1897.

MR O'DONNELL: Q. Have you got any instances of those?

A. I have just given you two.

MR SINCLAIR: Surely, my lord, he is not going to suggest that the rates involving the mountain differential are comparable to support the statement he has made, or that because competitive conditions arise it forces railways to reduce their rates to meet the competition, and still leaves them with a profit rather than lose the traffic entirely -- that that is in any way comparable to the



situation of the grain rates. This is a very important paragraph of the brief, and I think that if he has definite examples comparing like with like we should have those. I had marked when Mr. Frawley came to this point to make sure that I could have a look at them and have them checked by our traffic officers, because I am advised by them that they know of none.

THE CHAIRMAN: Have you notified Mr. Frawley as to what you are saying?

MR SINCLAIR: Yes, because I am advised by our traffic officers that there are none if you properly make a comparison like this.

THE CHAIRMAN: Well, we will adjourn until tomorrow morning, and then perhaps we will have some light on the subject.

---The Commission adjourned at 4:48 p.m., to meet again at 10:30 a.m. on Tuesday, March 28, 1950.



A.R.

ROYAL COMMISSION  
ON  
TRANSPORTATION

EVIDENCE HEARD ON

MAR 28 1950

VOLUME

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ROYAL COMMISSION ON TRANSPORTATION

Ottawa, Ontario.  
Tuesday, March 28th/50  
Index Page #126  
Page

<u>HU HARRIES</u> - Recalled. Examination by	
Mr.Frawley continued - - -	19328
Examination by Mr.Covert - - - - -	19330
Cross examination by Mr. Sinclair - - - - -	19364
<u>Mr.Shepard:</u> Statement re evidence of	
R.E.Moffat - - - - -	19403
Statement of evidence of Mr. R.E.Moffat on behalf	
of the province of Manitoba - - - - -	19405
Cross examination by Mr.Sinclair - - - - -	19416
Noon adjournment - - - - -	19424-A
Statement by Mr. R. H. Milliken, K.C. who	
appeared on behalf of the Alberta Wheat Pool, the	
Saskatchewan Co-operative Producers and the Manitoba	
Pool Elevators - - - - -	19425
<u>JOHN H. WESSON</u> - Called. - - - - -	19426
<u>EXHIBIT No.261:</u> Filed by	Crow's Nest Pass
Mr.MacPherson: Agreement, dated	
September 6, 1897,	
between the Canadian	
Pacific Railway and	
the government of	
Canada - - - - -	19426
Examined by Mr. Milliken: - - - - -	19426
Submission on behalf of Manitoba Pool	
Elevators, Saskatchewan Co-operative Pro-	
ducers and Alberta Wheat Pool - - - - -	19428
Examined by Mr. Covert - - - - -	19454
Cross examination by Mr. Sinclair - - - - -	19478
Adjournment - - - - -	19492

- - - - -



ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO  
TUESDAY  
MARCH 28, 1950.

THE HONOURABLE W.F.A. TURGEON, K.C., LL.D., - CHAIRMAN  
HAROLD ADAMS INNIS - COMMISSIONER  
HENRY FORBES ANGUS - COMMISSIONER

-----  
G.R. Hunter  
Secretary

P.L. Belcourt  
Asst. Secretary

-----  
COUNSEL APPEARING:-

F.M. Covert, K.C.	}	Royal Commission on Transportation
G.C. Desmarais, K.C.		
H.E. O'Donnell, K.C.	}	Canadian National Railways
N.J. MacMillan		
H.C. Friel, F.C.		
F.C.S. Evans, K.C.	}	Canadian Pacific Railway
I.D. Sinclair		
C.D. Shepard	)	Province of Manitoba
M.A. MacPherson, K.C.	)	Province of Saskatchewan
J.J. Frawley, K.C.	)	Province of Alberta
F.D. Smith, K.C.	}	Province of Nova Scotia; Transportation Commission of the Maritime Board of Trade.

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- 19324 -

Ottawa, Ontario  
Tuesday, March 28, 1950.

M O R N I N G      S E S S I O N

THE CHAIRMAN: Yes, Mr. Frawley.

MR. FRAWLEY: Mr. Chairman, we had reached yesterday the middle of page 27 in our brief, and I would ask that the remaining three and a half pages to the end of it be taken as read.

(The following is the portion of the brief referred to):

There are rates today which move traffic at a charge below the level which pertained in 1897. Certain water and truck competitive rates, for example, are well below their 1897 level. The grain rates are far from unique.

Rates which were established in 1897 are not obviously unreasonable under today's conditions. Technological advances<sup>(7)</sup> have been too great and traffic changes too many automatically to assume this. It is impossible to assume that the original rates were just and reasonable in the absence of a regulatory tribunal at that time. Even the suggestion that the rates were appropriate to the price of the product is questionable. It could just as well be said that the rates were appropriate to a dividend rate on C.P.R. stock of 10%, or to a net return of \$42.84 on each \$100.00 of gross earnings.<sup>(8)</sup>

(7) Ibid, Appendix to Part I,

(8) Ibid, Appendix to Part I,

W. J. ...  
... ..

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$$L_{\text{eff}} = \frac{1}{2} \int dt \int d^3x \left[ \frac{1}{2} (\partial_t \phi)^2 - \frac{1}{2} (\nabla \phi)^2 - \frac{1}{2} \phi^2 \right] + \frac{1}{2} \int dt \int d^3x \left[ \frac{1}{2} (\partial_t \psi)^2 - \frac{1}{2} (\nabla \psi)^2 - \frac{1}{2} \psi^2 \right]$$

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It has been alleged that the similarity in circumstances surrounding the production of grain in Western Canada as compared with contiguous areas of the United States makes it pertinent to examine and compare the grain rates which are applicable in these two countries. (9)

We submit that such a comparison is entirely irrelevant because the economic circumstances and conditions in these two countries show such a wide difference. Spring wheat is not normally an export product in the United States. Table I gives the total United States exports of wheat and the exports of hard red spring wheat for alternate years from 1925 to 1945. This table makes it apparent that the American spring wheat is on a domestic basis.

TABLE 1

<u>U. S. Exports of Wheat by Types</u>		
<u>Year beginning July</u>	<u>Hard Red Spring<sup>(1)</sup></u>	<u>Total All Wheat<sup>(2)</sup></u>
1925	4,958,000	63,189,000
1927	6,000,000	145,999,000
1929	1,900,000	92,175,000
1931	{3}	96,521,000
1933	{3}	18,799,000
1935	{3}	311,000
1937	2,000,000	83,740,000
1939	5,000,000	23,636,000
1941	2,000,000	12,632,000
1943	14,000,000	11,942,000
1945	53,000,000	226,135,000

(1) Agricultural Statistics U.S.D.A.

(2) Statistical Abstract of the U.S. Department of Commerce

(3) Less than 500,000 bushels.

The American spring wheat crop has not been priced on an export basis for 25 years. Any American spring wheat that has found its way into export channels has been

(9) Ibid., Part I, p.165.





dumped there. There are several reasons for this situation.

As we previously explained, the spring wheat crop is utilized domestically. The fact that domestic demand can take care of the crop and the fact that there is a very substantial protection for the market enables the wheat producer to maintain a price in keeping with the general domestic level. This creates a very important dissimilarity between the American and the Canadian situation. In addition since the end of the first world war, the American Government has shown a paternal interest in the welfare of the wheat producer. This interest has evidenced itself in price subsidization, production control, storage programmes, programmes to stimulate demand, and direct producer payments. These activities have had a profound effect upon the returns to the American producer. While precise figures are not available to indicate the extent of the aid received by the American farmer from the activities of his Government in this particular regard, there is no doubt that in total they account for <sup>many</sup> many millions of dollars.

Aside from these two important differences, the transportation characteristics of the American and Canadian wheat-producing areas are different. The wheat grown in North Dakota which comprises roughly 50% of the total spring wheat production of the United States moves an average of four hundred and fifty miles to a lake terminal. The wheat grown in Minnesota moves an average of two hundred miles while that grown in South Dakota has an average rail haul of three hundred and fifty miles. Montana, the producing area most distant from lake transport has an average haul of one thousand miles. Looking at the other spring wheat producers we find that in Washington which



accounts for a large proportion of the far western wheat crop, the Big Bend country is situated two hundred and fifty miles from the sea-coast. In Oregon the average haul is less than two hundred miles where most of the wheat moves by barge down the Columbia river. Idaho is four hundred miles from the West Coast.

In the United States spring wheat area as a whole the average haul is less than four hundred miles. This is to be compared with the average haul in Canada of seven hundred and seventy miles.

The United States winter wheat belt originates most of the export wheat. Kansas is the centre of the winter wheat belt and in certain years has produced as much wheat as Western Canada has exported. The wheat from Kansas moves either to Chicago or to the Gulf ports for shipment. In the winter wheat area the average haul to water (either Chicago or the Gulf coast) is six hundred miles.

It is apparent that the circumstances and conditions in these two countries make it impossible to draw any conclusions about the appropriate level of freight rates in Canada. Even if it were possible to protect the Canadian farmer from the vicissitudes of international trade to the extent that the American farmer had obtained that protection, it would still be highly questionable whether it would be possible to make rate comparisons which were meaningful. Under the present circumstances such comparisons are entirely useless.



- 19327-A

### S U M M A R Y

The present export freight rates on grain and flour are all that remain of the original Crow's Nest Agreement of 1897. During the past thirty years the C.P.R. has succeeded in divesting itself of all but one of the original binding provisions of the contract. They now seek to abolish the Agreement in its entirety. The arguments which have been put forward for the purpose of showing that statutory rates are wrong in principle are not upon consideration persuasive. On the contrary it has been shown that there are sound historical reasons for the continued application of the statutory rates on grain. There is no matter of principle involved in the determination of this problem. It cannot be shown that other rates are at an unjust or unreasonable level because of the statutory rate. Although production-wise the American spring wheat belt may be comparable with Western Canada, market-wise and transportation-wise no useful comparison may be made. Statutory rates on grain are as necessary today as they were when they were originally introduced. The farm economy of Western Canada still demands that the Crow's Nest Pass rates on grain remain unaltered.





HU HARRIES, RECALLED

EXAMINATION BY MR. FRAWLEY(Cont'd):

Q. I have one question to ask Mr. Harries. Mr. Harries, have you some figures showing the respective dollar amounts of farm aid in Canada and in the United States in connection with wheat and grain growing?

A. These figures are not strictly comparable but the dominion government from September, 1939, to December 31, 1948, paid to western farmers through prairie farm income assistance and wheat <sup>reduction</sup> acreage/a total of \$105,642,000. In the United States as at January 31st of this year, the United States government had invested in its farm price support programme alone \$3,947,424,000. At that date they had under control 627,000,000 bushels of corn and nearly 475,000,000 bushels of wheat.

THE CHAIRMAN: Q. What do you mean by control?

A. Under loan, sir, to the commodity credit corporation or on farms under loan.

Q. I think we heard something about that the other day. You used the word "control". What is the control?

A. They had made a loan on it or purchased it outright, sir. As far as the market was concerned it was under their control. That was the way I used the term.

Q. All right.

MR. FRAWLEY: That is all I have.

THE WITNESS: Pardon me, there are two corrections which I wish to make on page 27. In the last paragraph where we say, "Rates which were established in 1897 are not prima facie" we have changed that to "obviously".

MR. FRAWLEY: Q. The first line in the last paragraph on page 27?

A. Yes, and the other one is the words "a mere dogmatic expression of opinion" further down.



Q. That is in the fourth last line?

A. We are changing that to "is questionable".

THE CHAIRMAN: Q. If you say it is a mere expression of opinion, I suppose all expressions of opinion are subject to question.

A. Yes.

COMMISSIONER INNIS: I find a little difficulty in reading the second sentence in that paragraph, the second sentence in the last paragraph.

MR. FRAWLEY: On page 27.

"Technological advances have been too great and traffic changes too many automatically to assume this."

THE WITNESS: What I had in mind, sir, for instance, the operating ratio or net return on \$100 of gross earnings in 1897 was \$42.84, and as your traffic volume increases --

COMMISSIONER INNIS: What you really want is a comma after "many" and after "automatically"?

THE WITNESS: Yes, sir, that would fix it.

THE CHAIRMAN: "Not obviously unreasonable" - does that mean the same thing as obviously not unreasonable?

MR. FRAWLEY: No, we changed that to conform --

THE CHAIRMAN: "Rates which were established in 1897 are not obviously unreasonable"--

MR. FRAWLEY: Are obviously not unreasonable.

THE CHAIRMAN: That is what you mean?

MR. FRAWLEY: Yes.

THE WITNESS: No, we do not.

THE CHAIRMAN: Then you had better make up your minds.

THE WITNESS: We mean they are not obviously unreasonable. I would have to inquire into them to find out whether



they are unreasonable.

THE CHAIRMAN:

Q. You mean they cannot be said to be unreasonable.

That is what you mean?

MR. SINCLAIR: Is that right? I do not think they are going that far.

THE CHAIRMAN: I do not know; I am looking for light.

MR. FRAWLEY: Q. Mr. Harries, please paraphrase that sentence in any way you wish to make its meaning quite clear.

A. The C.P.R. has said the rates which were established in 1897 are obviously unreasonable under today's conditions.

THE CHAIRMAN: Q. Does "obviously" mean patently?

A. That is what I would assume.

Q. "Unmistakeably"?

A. Yes.

Q. What do you say?

A. We say they are not obviously or patently.

Q. You mean it cannot be said with certainty that rates which were established in 1897 are unreasonable under today's conditions. Is that what you mean?

A. Yes, sir.

MR. FRAWLEY: Yes, we will accept that.

MR. SINCLAIR: Could it be said what you are saying is they may well be but it requires study to prove it?

THE CHAIRMAN: That is what you say.

---

EXAMINATION BY MR. COVERT:

Q. Mr. Harries, in your brief you refer to the land grants -- is it land grant rates in the United States?

A. Yes, sir.

Q. Will you give me the page of that?

A. That is on page 22 in the last paragraph.

THE CHAIRMAN: What page?





MR. COVERT: Page 22.

THE CHAIRMAN: What does it say?

MR. COVERT: I am just looking for it.

THE WITNESS: It is the last paragraph on page 22.

MR. COVERT: Q. It goes over on to the next page, Mr. Chairman, but what I wanted to ask you about that is that you indicate in your brief that these especially low rates were given to the government in consideration of land grants that were made. I think that is right?

A. Yes.

Q. Under that the railways agreed to carry or do government work. For instance, in wartime they would carry soldiers free, wasn't it, or at a specially low rate?

A. At 50% of the normal rate

Q. Do you know whether or not that was in perpetuity, the original arrangement?

A. I don't know, sir, whether those words are in the contract.

Q. In any event, what you say is that it reached the stage where they had served their purposes, these rates, and the traffic had become so heavy that it was <sup>a</sup>burden on the railways and the United States government agreed they should be done away with?

A. I would not say it was necessarily a burden on the railways. It was a burden on the non-governmental traffic to some extent, yes.

Q. A burden on the non-governmental traffic; in other words, there was pressure on the other traffic because of these low rates?

A. Yes.

Q. So the government abolished those rates and they pay now the same as anyone else?

A. Yes, sir.





THE CHAIRMAN: Q. Pardon me a moment. Does this brief explain what these low rates were? Were they low rates granted by the railways in return for land grants?

A. Yes, sir.

Q. That is what they were.

A. I think, sir, originally they applied on all government traffic, and then they were revised so they applied on military traffic.

Q. Later on they were altered you say for <sup>very</sup> practical reasons?

A. That was when they were done away with.

Q. They had served their intended purpose -- that is not very clear?

MR. COVERT: I think at one time, Mr. Chairman, they were 50% of the normal rates, and then during the last war they were abolished completely. Traffic became so heavy they were abolished completely and the government pays the same as anyone else. That is right?

THE WITNESS: That is my understanding.

THE CHAIRMAN: Q. Does that mean that the government considered they had received enough in the way of consideration from the railways for these land grants? Is that the idea?

A. A board of investigation and research did <sup>a</sup> study on that, and they made a calculation which indicated that the total monies that the government had saved were very substantial in connection with that.

Q. How do you come to have these United States rates before you? Were they raised by the Canadian Pacific Railway?

A. Yes, sir, they were raised on page 152, sir.

MR. COVERT: Q. Now, the point of that was, Mr.



Harries, that there was a study made, and my impression of the result of the study was that the government had received by virtue of the discount in rates an amount in excess of what the value of the lands granted was?

A. That was one consideration, yes.

Q. Now, in that connection you say that Congress considered they had served their intended purposes and you go on to refer to the ever increasing extent of government traffic. It would seem to me both of those things might be raised against you as far as the Crowsnest rates are concerned. Here you have the west developed so that it is one of the largest wheat exporters in the world, and you might say therefore that the Crowsnest rates had served their purpose, and similarly you refer to the ever increasing extent of government traffic. That applies also to the grain on these railways, that it has increased to such an extent that it may be beyond what was ever even contemplated when the agreement was signed. Would you like to comment on both of those?

A. With regard to the second point, the increasing extent of government traffic, I think statistics in Canada will indicate that the proportion of total traffic in western Canada which is made up of grain is actually decreasing, and that was not the case in connection with government traffic in the United States. I would be quite certain that the extent of government traffic anticipated at the time the land grant reductions agreement was made in the United States was not in any sense comparable to the amount of traffic that would be anticipated from western Canada with regard to wheat at the time that the Crowsnest agreement was arrived at.



Q. I was thinking not in terms of percentage but really in volume of grain traffic. Could you not say there that it had increased to such an extent that it was beyond what was ever originally contemplated at the time the agreement was drawn?

A. I do not think that necessarily follows. After all, I think if anything, it probably has not developed as much as they thought it would, in view of the fact that you have had settlement and then retrenchment and so on in western Canada. I think the dreams they had at that time were far in excess of the actual situation today.

Q. Similarly, then, you say that the rates have not served their purpose yet?

A. I think that is correct; yes.

Q. And it is on just those two grounds that you distinguish them from the land grants, really?

A. Yes; and the fact that the land grant rates were a concession to government, and government is in business and so, which is a much different thing than the case of a group of shippers such as we have in western Canada.

Q. I take it you would really go so far as to say that because the words "in perpetuity" are in there, they could never serve their purpose until the railway ceases?

A. I would not go that far, no.

Q. Then you do not think that "in perpetuity" means in perpetuity?

A. As far as the situation today is concerned, I think these rates are still serving their purpose and they are necessary. What the situation fifty years from now will be, I would not be able to imagine.

Q. When you say they are necessary, I just want to take one little example, if I may, in respect of that. Suppose these rates had been increased to the same extent

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that other rates have been increased; that is, twenty-one per cent and sixteen per cent which, I think, gives about forty per cent.

A. Yes?

Q That would be about, on the average, an eight-cent increase on one hundred pounds or about five cents a bushel, would it not?

A. Yes.

Q. Taking the figure of five cents a bushel, and the total grain crop for export, what would that be? What would you say would be fair for an average? Would it be 300 million bushels?

A. 300 million bushels, yes.

Q That would give you what figure? That would be \$15 million a year, would it not? Is that right?

A. Yes.

THE CHAIRMAN: That is between both railways?

MR. COVERT: Yes, between both railways.

Q The total value of the crop at today's prices is what, approximately?

A. I think you could use an average of \$1.75 a bushel.

THE CHAIRMAN: What do you say, Mr. Harries? I could not hear that.

MR. COVERT: Q About \$1.75 at today's prices, which would be approximately what?

A. \$525 million, is it not?

Q. About \$525 million?

A. Yes.

Q As far as percentage is concerned, that would be about three per cent of the total value, would it not?

A. Yes.

Q. Then I understood from Dr. Britnell that there



were between 250,000 and 300,000 farmers in western Canada; on an average, that would mean about somewhere between \$50 and \$75 per farmer?

A. Yes.

Q That is what an increase would mean of the same amount that had been applied to rates generally in Canada?

A. Yes.

Q. What I wanted to know, Mr. Harries, is if you thought an increase of that kind would be ruinous even over a long period.

A. I can think not so very far back when it would be impossible to get \$75 from a farm family in western Canada because they did not have any \$75.

THE CHAIRMAN: I did not catch what you said, Mr. Harries. Will you speak louder, please?

THE WITNESS: I said that I could remember when it would be impossible to get \$75 from a farm family in western Canada because they just did not have \$5 let alone \$75.

THE CHAIRMAN: This \$75 is attached to wheat which exists and is shipped, is it?

MR. COVERT: Yes; that is right.

Q. I do not know whether that is a very responsible answer, Mr. Harries. I said "over a long period". I said: Do you think an increase of that kind would be ruinous?

A. I think it would be too much.

THE CHAIRMAN: Pardon me a moment. I should like to go back to these United States land grants before we proceed much further. All we know about them is what is contained in the C.P.R.'s brief at page 152 and your statement here at page 23, at which you say certain things about them. For instance you say they discriminate between different railways .

A. Yes.

Q. Which is not the case, of course, with these



Crow's Nest Pass rates.

A. Yes.

Q. And you say there were practical difficulties of determining  
/ land grants reductions. Whatever that means I do not know.

Where can we get more information about the matter?

It was you, Mr. Sinclair, who in your brief put forward this information.

MR. SINCLAIR: Yes, my lord.

THE CHAIRMAN: Can you give us full information about it?

MR. SINCLAIR: Maybe I could help in this regard.

THE CHAIRMAN: I do not want to delay these proceedings now, Mr. Sinclair.

MR. SINCLAIR: I think I can clear this matter up quite quickly, Mr. Chairman, in that when these land grants were made, when the railroads were built in the United States they received land grants from the Federal Government; and the condition of the grant was that they would give reductions to all government traffic. Subsequently that was reduced to traffic for military purposes. Then at the time that the public law was passed, referred to in our brief at page 152, they were wiped out, on account of the situation in the United States of routings; these equalization routes extended throughout the United States so that you find railroads that had not even received land grants also being forced to move government traffic at the rates that were fixed under the land grants statutes. Under the United States law on government traffic the railroads could always make a special what they called "Twenty-two quotations" , for the movement of government traffic.

THE CHAIRMAN: What was that term?

MR. SINCLAIR: Twenty-two quotations. That is a special rate they could make for the movement of government traffic. The power was there for the railroads to make a special rate on government traffic. But this was a

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statutory matter that forced them to accept a very low rate. At this time I think it would be useful if I were to read two short paragraphs out of the statement that was made in Congress by Representative Borah when this bill was introduced, and I should like to do so.

MR. FRAWLEY: Have you the reference, so that we could consult it?

MR. SINCLAIR: No. You will find it in the Congressional Record. He said, --

THE CHAIRMAN: Can you give us the year, the date and so on?

MR. SINCLAIR: It is when this bill was introduced. It is referred to in our brief.

MR. FRAWLEY: Public Law 256?

MR. SINCLAIR: That is right.

MR. FRAWLEY: The Seventy-Ninth Congress.

MR. SINCLAIR: That is right.

THE CHAIRMAN: About three years ago?

MR. SINCLAIR: I think it is three years ago; three or four years ago.

MR. COVERT: It was before that.

MR. SINCLAIR: In 1945 the land grant law was repealed. It was passed at that Congress. This is what he said:

" If we get the perspective of our transportation and realize its great importance, how it affects our people, I think we will be amazed at the short-sighted viewpoints expressed in opposition to this bill. We hear much about what it will cost the taxpayers. I believe our taxpayers are not shirkers. I do not feel they want representatives here to relieve them from their just obligations. The railroads have paid their debt. They constructed the roads that built up our great central empire. By reduced freight rates they have paid their government back over \$900 million, or over seven





times the value of the lands they received from the government at the time the lands were taken. How about the equity or good morals of further insisting that the roads shall continue to be subjected to such demands? One of the fundamental problems in our transportation system particularly as to rails is to prevent discrimination, to provide reasonable rates, that such rates shall be the same to all. The greatest violator, as it stands now, is the government of the United States in denying that equality which should characterize our transportation system. "

I think that is most appropriate.

THE CHAIRMAN: Can you give us any authors who have written this up?

MR. COVERT: Yes, Mr. Chairman. I have a fairly good summary of them in Mr. Brigham.

THE CHAIRMAN: Mr. Who?

MR. COVERT: Mr. B-r-i-g-h-a-m.

MR. SINCLAIR: Yes, he deals with the matter.

THE CHAIRMAN: All right; go on.

THE WITNESS: There is a summary on this work which is done by the B.I.R. and although there are only fifty copies of it, we have had access to one copy. If it would be of assistance to the commission, we could let you have it; we could file it.

THE CHAIRMAN: Q. What is the B.I.R.?

A. The Board of investigation and Research.

MR. FRAWLEY: Q. When was that study made?

A. It was made in 1944.

THE CHAIRMAN: Q. You might let Mr. Covert have it.

A. Yes, sir.



THE CHAIRMAN: All right, Mr. Covert; you may go on.

MR. COVERT: There was one point I wanted to get quite clear, perhaps from counsel, Mr. Chairman. That was as to page 22 of the brief where they say at the top of the page,

"It is agreed that the Board of Transport Commissioners is not today, and should not be made, a National Planning Board."

What I wanted to find out was if the three western provinces who submit this brief say that is true not only with regard to grain rates but with regard to all other rates. I think it might be useful to find that out at this time.

(Page 19344 follows)



MR FRAWLEY: Mr. Harries can make a statement as far as this particular passage in our brief is concerned.

THE WITNESS: I would say that Alberta agrees that the Board of Transport Commissioners should not be made a national planning board.

THE CHAIRMAN: Now, the Canadian Pacific agrees with that.

MR COVERT: Yes, I think that is so.

THE CHAIRMAN: Who is left that wants the Board to be a planning board?

MR COVERT: I don't know. I was trying to get some elimination now if I could.

COMMISSIONER INNIS: Q. Well, what else is the Board of Transport Commissioners?

A. Other than a planning board?

Q. Yes.

A. I think, sir, that inherent in their function of setting rates there is an element of what one may call planning, but the general position of the Board has been as indicated in a number of their decisions, that they are not concerned with the need to get into markets and so on. The Fraser Valley-Surrey Farmers Co-Operative shows that very well. I think in general we are in agreement with that position, remembering always, of course, the position that Alberta took in the industrial location brief, that inasmuch as rates in themselves have a planning effect, the Board should take cognizance of that fact, but not to go out and say, for instance, with wheat, take into account all the factors that one might if trying to set up a marketing policy. I think that is not part of their responsibility.

THE CHAIRMAN: Q. You put it this way, that the functions of the Board do not include, and you would mean





should not include, economic planning and resource development?

A. Yes, sir.

COMMISSIONER INNIS: Q. Can you mention any rate with which the Board has had to deal that has not in some way affected resource development and economic planning?

A. Their decisions do affect those, sir, but it seems to me the distinction is one of a sort of conscious effort to direct development along particular lines as opposed to looking at a rate bearing in mind certain what we may call rate factors, a consequence of which may be, as you suggest, in every particular instance to direct resource allocation. I think any time you are dealing with prices you are dealing with resource allocation.

Q. That is what I mean. It seems to me that there is really no necessity for referring to it as a planning board; it is a planning board no matter what it does.

A. I think the general distinction that has to be drawn there, sir, is between one that acts consciously toward some particular objectives which are non-rate objectives, if you wish to call them that, and one whose actions you can judge by certain rate and relatively objective standards.

Q. Put it this way: Supposing today that the statute were repealed and the Board were asked to fix proper rates for the transportation of grain and flour from the west, could they put themselves in the west in the position Parliament is in, and look upon this question of fixing these rates from what has been called the broad national point of view?

A. I think that is precisely the difficulty, sir, and that is why these rates must remain under Parliament, that the Board cannot do that. In fact, I think the C.P.R. is on record as saying that they would not expect the Board to



give consideration to variability and all those other factors in connection with grain production in Western Canada and the relationship between it and the national policy. Those are matters which must be dealt with by the Government directly rather than by the Board.

MR COVERT: I would just like to have on record that that is the official view, if I could get it, sir, of Alberta, Saskatchewan and Manitoba.

THE CHAIRMAN: Yes. Put it this way, Mr. Covert: Find out whether there are any parties represented before us who want this Board to be made an economic planning board. We have heard that expression used, you know.

MR COVERT: Unfortunately, sir, I think the railway counsel and western counsel are all that are with us.

THE CHAIRMAN: They are all against it?

MR COVERT: No, I say they are all that are with us today. The other counsel are not here.

THE CHAIRMAN: Yes, I know. Well, I think the thing ought to be canvassed. I know there are, of course, in the great multitude of witnesses and evidence---

MR COVERT: What I was thinking of perhaps more than anything else, sir, was the time the seven provinces made their application to the Dominion Government for the appointment of this Royal Commission, and what I really wanted to find out was whether there had been any change.

THE CHAIRMAN: At that time did they advance the argument that the Board should be given planning powers?

MR COVERT: They may not have said so in so many words, Mr. Chairman, but there was reference to revolutionary changes and broad powers of the Board, and I just wanted to find out if there had been a change from the position that was taken at that time. It seemed to me it would be



very useful.

THE CHAIRMAN: Oh, very useful.

MR COVERT: And this opportunity presented itself here. Now, it seems to me that at this point counsel for the three provinces might advise us of their position in that matter.

THE CHAIRMAN: Well, there were seven provinces.

MR COVERT: Yes, but the rest of them are not here.

MR SHEPARD: As far as Manitoba is concerned, Mr. Chairman, I think that I can state that we are not asking that the Board should be an economic planning board. I would certainly be inclined to agree with Dr. Innis, that the planning may result from the Board carrying out its functions, because the Board is not fixing rates in a vacuum, and the fixing of the rates according to the standards that they use is bound to have an economic effect, but Manitoba does not suggest that rates should be fixed, for example, so that industries would develop in an area where they would not otherwise develop. In that sense Manitoba does not suggest that the Board should be an economic planning board.

MR MACPHERSON: I think, Mr. Chairman, the position of Saskatchewan was, at the meetings to which Mr. Covert has referred, that there should be attention given to dealing with the Board as such and the giving of the Board such expert assistance as would assist it, but as to its powers, there was no definite suggestion as to amendment of the existing legislation.

THE CHAIRMAN: What is your position today?

MR MACPHERSON: Well, on this particular point, of course, my lord, we urge, as we have indicated, that the matter should not be referred to a board at all, but left





with Parliament.

THE CHAIRMAN: Yes, of course. That is not the point. Mr. MacPherson, if you will excuse me, the brief in question -- it speaks for the three provinces, does it not? -- the brief in question is your brief as well as the others. It says that today the functions of the Board do not include economic planning and resource development. The inference is that you want the Board to remain that way.

MR MACPHERSON: That is the inference, yes.

THE CHAIRMAN: That you do not want it to be given the power to do economic planning and resource development. That is what your brief says.

MR MACPHERSON: Yes, I know, my lord.

THE CHAIRMAN: All right.

MR FRAWLEY: We are not asking that the functions of the Board should include economic planning and resource development as such.

THE CHAIRMAN: That is very clear, I think, from that paragraph in your brief.

MR COVERT: Q. Now, Mr. Harries, at page 24 of your brief, and at page 19299 of the evidence, it says:

"The Crow's Nest grain rates in western Canada were in part the result of a deliberate attempt by Parliament to compensate the prairie region in some measure for the lack of competitive transport."

Now, it seems to me that that may be very, very important, and I wanted to know if you had any evidence or any reference which is authority for that statement, that it was in part the result of a deliberate attempt by Parliament to compensate the prairie region?

A. I must confess, sir, when I was reading through the debates in the House, I did come across something that





indicated that, but I have not been able to find it, so I will forget about it; as far as we are concerned it does not exist. The fact that it was a deliberate attempt I think is shown by the fact that there was a reduction brought about in the rates because of this subsidy. Now, they have paid subsidies in other areas of Canada for construction of rail lines, and there was never any question of tying them in the eastern section of Canada to a rate reduction. At the same time as they were developing the railway network in Eastern Canada they were spending large sums on canals and so on, and it would be my opinion -- and that is all it is -- that the Crow's Nest agreement was a sort of offset for the development which had gone on in Eastern Canada, some of which was sponsored by the Government. That is, I do not think the question ever arose in Eastern Canada of them needing assistance to keep down the rates; it certainly did in Western Canada, and that is plain from the record, and that is where that statement would come from.

Q. I was wondering if perhaps in the early debates you had run into some statement to the effect that this was to compensate, that they had built the canals in the east and since that kept rates down -- you have found nothing like that in the original debates?

A. As I say, I remember reading something like that, but I had it underlined because I knew it was important, and I was not able to find it last week when I was looking for it, so I have to say no, there is not anything, unless I find it and can show it to you, sir.

Q. I think if it could be found it might be very useful, because, as I understand it, one of your main arguments in your part of the brief is that as far as the rates on grain are concerned there is likely never to be competition?



A. Yes, sir.

Q. So there is nothing to hold them down, as there is on practically every other rate in the east?

A. That is our point, sir.

Q. That is one of the main points in this part?

A. It is, sir, yes.

Q. As I say, if you could find some evidence that Parliament intended that, it would seem to strengthen your position.

A. I will certainly try and find something, sir.

THE CHAIRMAN: Q. I can see by your brief that you have been through the debates in Parliament; you quote Mr. Blair and you quote Sir Richard Cartwright.

A. Yes, sir.

Q. You have not found anything that would support this statement in the brief at page 24, have you?

A. No, sir, I cannot put my finger on anything now.

COMMISSIONER INNIS: Mr. Blair was referred to in the Saskatchewan part of the brief, Mr. Chairman. This is the Alberta part.

THE CHAIRMAN: Yes.

MR COVERT: My understanding of what Mr. Harries says, Mr. Chairman, is that he thinks he saw that but he cannot put his finger on it now. My point is, if he does, I think it should be filed with the Commission.

THE CHAIRMAN: It would be very important. We need not confine it to Mr. Harries; the brief speaks for the three provinces.

MR COVERT: I could not find it myself.

THE CHAIRMAN: They could all make it their business to look for it.

MR COVERT: Yes.

Q. Now, I just wanted to deal shortly with page 25 of



the mimeographed brief, where you say:

"Certainly the burden of the contract must rest on the contracting parties. If that be so, the question of unjust or unreasonable rates on other traffic should never arise. If there is a financial burden on the Railway as a result of the contract, then such burden must surely fall upon the Railway Company and upon the shareholders thereof rather than upon any other traffic."

Now, I wanted to discuss that with you for a moment. As you say, "Certainly the burden of the contract must rest on the contracting parties." That would be the Canadian Pacific and the Government?

A. Yes, sir.

Q. Now, as things have turned out, of course, if there is a burden it rests almost equally heavily on the Canadian National; that is right?

A. I would presume so, although the Canadian National has said nothing about it.

(Page 19353 follows)





Q. Well, I mean it would be pretty self-evident, wouldn't it, that the same rates apply, it would be pretty self-evident?

A. It depends. I don't know what part of the traffic the C.N. move or anything. I think there is certainly the possibility.

Q. I was not getting down to percentages. I mean, one might take 40% and one 60% of the grain, but whatever grain the Canadian National did carry, the same burden, if there is a burden, rests on them. That is one place where the burden is resting. It is not on one of the contracting parties?

A. That is right.

Q. Unless you could say that because the Government owns the Canadian National it is bearing the burden in that way.

A. I think that might be a possibility, yes, sir.

Q. Then, if you are sticking strictly to the contract there (because it seems to me you are in that case) one of the contracting parties has certainly changed the terms of the contract.

A. Well, speaking about a contract, I would look on the 1925 amendment as a sort of determination, as a revision certainly, of the contract. They gave up certain things and they got certain things, so that is the result of the contract, I would say. That is what I would be referring to when I speak of a contract, not the original document. That is loosely and poorly phrased.

Q. It is the 1925 Statute to which you refer here?

A. Yes.

COMMISSIONER ANGUS: Would you say that if a



Government makes a contract with someone and for some reason, perhaps the Government's own financial policy, that contract becomes more oppressive and burdensome and more onerous than had been anticipated, are you saying that it is wrong for the Government to revise it, re-negotiate it?

A. Oh, no.

Q. But you say the burden must surely fall upon the railway company?

A. Well, as I understood it, you said, if it was more burdensome than anticipated and so on. As far as the Crow's Nest agreement is concerned, I have never seen any evidence that would indicate that.

Q. No, I gather that that is not admitted, that is in dispute as to whether it has become more onerous; but if it had would this apply, that the burden must surely fall on the shareholders?

A. If the burden results from the actions of the Government itself, you mean?

Q. Is inflation an act of the Government?

A. To some extent, yes.

Q. Well, I mean if a situation results in which it seems that the contract might, shall we say, reasonably be re-negotiated, do you think that some third party benefitting under it has a right to say "no, that must not be re-negotiated"?

A. If you just have one party that is complaining about it, I would look pretty long and hard at it before I said that there would be justification in re-negotiating it. If I could see that both parties, if it was generally agreed that it should be re-negotiated, that would be



all right; but in most contracts I suppose there is always one party that could see better terms after the contract had been in force for a while.

Q. No doubt one party takes the initiative in asking that it should be re-negotiated, but must the other party automatically say "no"?

A. I don't know. It doesn't seem to me there is much sense in having a contract if you are going to change it.

Q. Even if conditions change?

A. Well, if it could be demonstrated by a very compelling reason, yes, they might be negotiated.

Q. To take one example. Suppose the inflation had been in the order of 10:1, would you consider that that justified negotiation - the sort of inflation that has occurred in France?

A. That may be a factor, sir. I think you could not just say "yes" or "no".

Q. But it might be, put it that way.

A. It might, yes, sir.

COMMISSIONER INNIS: Q. I am really asking for legal advice on this question, but such a contract as is outlined in this paragraph, is that on all fours with the ordinary type of contract?

A. I am afraid, sir, I don't know enough to answer that question.

Q. After all, isn't it primarily a Statute rather than a contract? The contract is embodied in the Statute, but it is the power of Parliament which decides?

A. Yes, I think that would certainly make it different from an ordinary one.





Q. Do you think you would be willing to change your interpretation of the contract under those circumstances?

A. The reason I put this in here is because it seems to me that under this Crow's Nest agreement, as soon as the Western Canadian farmer started to get any benefit out of the contract -- at the end of the first World War it was removed and in 1925 it was put back in, and we have listened for twenty-five years to the low grain rates and so on on behalf of the railways. I cannot see the sense of making it in the first place if the first time it starts to pinch a little bit you are going to remove it. I mean, it doesn't just seem to be sensible, and that is the idea we are trying to get across here.

Q. I think you are inclined to make the Canadian Pacific something equal to the Government, and after all the Canadian Pacific is a creature of the Government itself. The Act set up the Canadian Pacific Railway. However, go on.

MR. COVERT: The real difficulty that I had with this, Mr. Harries, was when you say that the financial burden should be passed along to the railway or the shareholders; because it is conceivable that it might reach a position where it cannot be, and it seemed to me that the real point is, if the railway must continue as a private enterprise, then it may be that you cannot pass it along to the company or the shareholders. Now, what do you do in a case like that in considering the analogy that you had here?

A. I think if the corporation was going to go into





receivership or be bankrupt and so on, then that might terminate the contract all right.

Q. That is my point. Do you say that these rates must stay at this and if they are losing rates, that then because the company, and the company through its shareholders, made this contract, that they must stand by it and if necessary they must go into bankruptcy or receivership before this contract is altered? Do you carry it that far?

A. I think it should get very nearly to that point.

COMMISSIONER ANGUS: Mr. Harries, how would you assess the burden? I gather you say there is not a financial burden; the railway says there is. Now, if the burden, supposing there is one, is to fall on the shareholders, it must be measured. Does that mean that the Board in a rate application would say: "Reasonable rates are so much, the Crow's Nest rates are so much lower. The burden on the railway is X. We will take the requirements of the railway, deduct X and give them the remainder"?

A. I think that would have its effect on the rate of return, and so on, yes, I think so.

Q. That would involve an assessment - do we call them normal rates? - true, to the prejudice of the railway, not to its benefit; but it would involve the same process of assessment, wouldn't it?

A. Well, it would involve the process of assessment such as the railway did in its compensatory study.

Q. I don't mean that it is impossible, but I mean it would be a function of the Board, in your judgment, to make such an assessment, either to say the financial burden



is zero and therefore we needn't bother, or the financial burden is positive and is X: therefore we are going to give the railways its requirements minus X.

A. I think it can be done in the same way as they determine all the requirements, and this would be one factor in the requirements or a deduction from the requirements.

Q. And you would have to calculate it before deducting it?

A. The railway, as they do with these others.

MR. COVERT: Q. There is just one other thing, Mr. Harries. The question arose yesterday about rates today which move traffic at a charge below the level which pertained in 1897, and this is referred to at page 27. I think you gave one example as being some transcontinental rates?

A. Yes.

Q. And were there others, other examples that you had?

A. Well, the <sup>standard</sup> rates that would apply east of Revelstoke to Canmore today would be less than the rates which applied to that same movement in 1897.

Q. Could you explain why that is?

A. Well, the rate for 1897 first class for one hundred miles would be (if my memory serves me right) \$1.08. Today that same one hundred miles east of Revelstoke would be somewhere in the neighborhood of 96 cents. The reason for it is because they had higher rates in 1897 from Revelstoke east than they have today.

MR. O'DONNELL: What about the mountain differential?



THE WITNESS: The mountain differential? Those were the rates which were paid.

MR. COVERT: Q. All I want to get on the record is why it was, and I think you have told us. First, the rates - that was in Pacific territory was it?

A. Yes, sir.

Q. And there was the mountain differential applied, and I suppose at that time in the Pacific territory <sup>would be</sup> / higher there than they were later on?

A. They were twice what the Prairie scales were.

Q. So there may be rates in effect today, you say, that are below the level of what pertained in 1897, and that would be mostly in that territory?

A. Those are the only standard rates that I know of that would be lower. As I say, then there are competitive rates which are lower.

Q. Mr. O'Donnell asks if they would be transcontinental competitive rates?

A. Well, there would be some transcontinental competitive rates. I have not checked the tariffs, but I would not be surprised that there are other competitive rates.

MR. O'DONNELL: But you don't know.

THE CHAIRMAN: Transcontinental competitive rates, are they lower now than they were in 1897?

A. I think there are some of them that would be.

MR. SINCLAIR: Which ones?

THE WITNESS: Canned goods at \$1.40 today's rate, Mr. Sinclair.

MR. SINCLAIR: I understand the statement has been made, and I said last night I think this is





most important, and if the witness has any examples I wish he would give them to us, because our traffic officers have advised me that if you make a proper comparison - we have looked for this to see whether this statement in the Brief can be supported, and we cannot find it to support that statement.

THE CHAIRMAN: What statement have you in mind?

MR. SINCLAIR: The statement made by the provinces in the Brief that Mr. Covert is referring to.

THE CHAIRMAN: What page?

MR. COVERT: It says, sir, at page 27 in the second paragraph, the fourth line down in the second paragraph:-

"There are rates today which move traffic at a charge below the level which pertained in 1897. Certain water and truck competitive rates, for example, are well below their 1897 level. The grain rates are far from unique."

(Page 19461 follows)



My understanding, Mr. Chairman, is that they say here is an 1897 statute. It has been alleged that since it was put into effect in 1897 it had a rate of 3 cents lower than the 1897 level, and that prima facie that is an unreasonable rate. They say that disappears because here we can show you other rates that are well below the 1897 level. I do not know how important it is but it is a matter of interest to see whether or not that is so. If there was a large number of rates that were below the 1897 level perhaps that would be --

MR. SINCLAIR: Would it help the Commission if Mr. Jefferson made a check on these trans-continental rates to see if he can find how many there were or if there were any, and advise the Commission. I think he could do it. He does not know whether the tariffs are available right here now.

MR. O'DONNELL: Isn't it the other way around? The allegation is Mr. Harries and I think he would be the one to establish the evidence. He says he has not checked.

MR. COVERT: I do not think we care where we get it as long as we get it.

MR. SINCLAIR: We say there are none.

THE CHAIRMAN: Perhaps you might co-operate.

MR. SINCLAIR: We say there are none but we will make a careful check just to support our statement.

MR. COVERT: That is all I have.

THE WITNESS: I would like to say that I have not checked the trans-continental tariff, but if you want one, example, the rate on canned goods today is \$1.40 to move from Toronto to Vancouver, and if you were moving canned goods from Toronto to Vancouver in 1897 you would pay more than \$1.40 a hundred pounds.

MR. SINCLAIR: That is not comparing like with like.



MR. FRAWLEY: That is what you say. We are simply telling you what the rates were. You argue it out whether it is comparable or not.

THE WITNESS: The statement which we sought to test here was the one that it is an obviously unreasonable rate. It is not obvious if there are other rates. Certainly one is a competitive rate and the other was a standard rate. That is all right, but when a man pays his freight he does not look to see whether the railways call it a competitive rate or a standard rate. He pays out \$1.40, and he paid out more than that in 1897.

MR. COVERT: Q. Just to clear that up, Mr. Harries, you say in 1897 canned goods were higher?

A. Yes.

Q. I suppose there was no Panama Canal then?

A. No, that is right.

Q. And the argument now is the trans-continental rate is a competitive rate and that is why it is lower, and if you didn't have a competitive rate it would be perhaps higher than it was in 1897?

A. I do not think there is any doubt about it but the statement that it is obviously unreasonable just does not follow.

MR. FRAWLEY: There is nothing secret about what we say because in plain language we say that certain water and truck competitive rates, for example, are well below their 1897 level. The witness says that if a man was shipping a car of canned goods from Toronto to Vancouver in 1897 he would pay X cents per hundred pounds. We are not concerned with what label they want to put on these tariffs. Today he pays \$1.40 and he paid more in 1897. If Mr. Jefferson is only going to make up a statement in which he will endeavour to show that in 1897 there was no Panama





Canal and therefore there was no competition, no competitive rate, as far as I am concerned I have seen so much of that kind of thing that I am not interested in that.

THE CHAIRMAN: It does not matter how low the rate may be now and what reason may be behind the giving of the low rate, whatever rate there is is compensatory.

MR. FRAWLEY: Today.

THE CHAIRMAN: That is what the railways tell us. They have no rates fixed by themselves which are not compensatory.

MR. FRAWLEY: That is right, sir.

MR. SINCLAIR: I should like to read that sentence again.

"Certain water and truck competitive rates are well below their 1897 level".

THE CHAIRMAN: Yes.

MR. SINCLAIR: 1897, water and truck competitive rates I say is what the statement says.

THE CHAIRMAN: There were no trucks in 1897.

MR. O'DONNELL: And no water competition.

THE CHAIRMAN: Doesn't that mean this, that certain rates which exist today, and are low because of water and truck competition, are well below what they were in 1897 when there were no trucks and no Panama Canal?

MR. SINCLAIR: That may be; we are not challenging that.

MR. FRAWLEY: Then our point is admitted. That is fine.

MR. SINCLAIR: What follows from it we will leave for argument.

Commissioner INNIS: I should like to ask one further question. Following Mr. Covert's question and also Dr. Angus' question, do I infer that you feel that





Parliament should be concerned with the continued existence of the C.P.R., that is, you do not want them pressed to the point of bankruptcy on this?

THE WITNESS: Oh no. We have gone on the record as saying we think the C.P.R. should remain under private ownership, and so on.

COMMISSIONER INNIS: Q. Do you go further and say it should be maintained in a particular state of health as a private enterprise? Mr. Frawley mentioned 4% or 5%, perhaps indicating that as being the yardstick of health?

A. I would certainly go along with whatever state of health Mr. Frawley has said he would like to see the C.P.R. in.

Q. That is as far as you will go?

A. Yes.

MR. FRAWLEY: Dr. Innis, I wonder if it would help to raise the question as to whether or not this contract can be changed by the contracting parties. I have in my hand the actual agreement. You will recall the agreement was not put into the statute as a schedule, but the actual agreement between Her Majesty, Queen Victoria and the Canadian Pacific Railway is dated the 6th day of September, 1897, and I would suggest that my submission was very well taken that Her Majesty or His Majesty or the government of Canada and the Canadian Pacific Railway could not change this agreement. Parliament would have to change the agreement.

COMMISSIONER INNIS: Yes.

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CROSS-EXAMINATION BY MR. SINCLAIR:

Q. Yesterday at page 19309 of the transcript you were their dealing with the payment made on account of traffic



being diverted from west of the breaking point to Fort William. You gave the figure that in 1948 the payment was only \$24,084. I suggest to you, Mr. Harries, that that was the payment that was made or the loss incurred by the wheat board after collecting some \$390,000 from the cereal import board of Great Britain arising out of diversions. Is that correct?

A. There may have been payments by the dominion government for feed wheat; that is correct.

Q. Your figure of \$24,084 only covers the actual amount of the diversion charges for higher freight rates that could not have been collected by the wheat board from the British cereal import board or from the dominion government?

A. It is the net freight paid, yes.

Q. By the wheat board?

A. Yes.

Q. After collecting these large sums of money - I suggest to you \$390,000 from the cereal import board and a sum in addition to that from the dominion government?

A. Correct.

Q. Mr. Harries, you were here during the evidence of Mr. Armstrong to this Commission?

A. Yes.

Q. You have read the transcript, I take it?

A. No, as a matter of fact I haven't read it.

Q. Well, you will recall him dealing with the case in which there was a reduction on grain rates in the United States, and that was followed by an equivalent drop in the Chicago market price. Do you remember that instance in 1929?

A. Yes, he spoke of it.



Q. Do you know of a similar case in Canada?

A. No.

Q. Do you remember that western Canadian grain rates were sharply reduced in 1922?

A. I remember there was a reduction.

Q. That was when the Crowsnest level became effective again?

A. Yes.

Q. There was a drop from 29 cents to 20 cents.

THE CHAIRMAN: A drop of what?

MR. SINCLAIR: From 29 cents --

THE CHAIRMAN: In what?

MR. SINCLAIR: In the freight rate on grain to Fort William.

THE WITNESS: From where?

MR. SINCLAIR: Q. From Regina, taking the average. That is shown in the table that was put in in part one of your submission?

A. Yes.

Q. I take it that amounts to five and a fraction cents per bushel?

A. Yes.

Q. It is probably not very fair to ask you, but you can tell me if you do not want to answer and I will give you the information. Do you remember the course of the Winnipeg wheat market at that time, that is, in July, 1922?

A. I was not taking a very active interest in wheat at that time.

Q. Have you checked it since?

A. No, I have not.

Q. I am instructed that there was a low of \$1.29 per bushel on June 19, 1922, and the trend of the market was up





following that date until on July 4th the high point of the market was reached, that is, \$1.40 7/8. I am instructed that following that date there was a fractional fall in the market on July 5th, but on July 6th the price went down to \$1.38 and a fraction and the next day it went down to \$1.36 and the next day \$1.33, and that was a reversal of the trend in the market.

MR. MACPHERSON: I wonder if my friend could tell at the same time whether there were any heavy rains in western Canada.

MR. SINCLAIR: I am going to help Mr. MacPherson in just a minute.

THE CHAIRMAN: Would you tell us again, please, the date on which the new rates went into effect?

MR. SINCLAIR: July 6th.

THE CHAIRMAN: The new freight rates.

MR. SINCLAIR: That is right. I say Mr. Harries and maybe Mr. MacPherson checked this. I don't know; I presume --

MR. MACPHERSON: I haven't checked it. I am simply suggesting that my friend is trying to give evidence in a very peculiar way. I am asking him to tell the whole story, whether or not there were any heavy rains in the west at that particular time.

THE CHAIRMAN: He is just showing us this coincidence which may mean something or not. The freight rates went down and then the price of wheat went down. There may have been other factors of course. We are not excluding them from our minds.

MR. SINCLAIR: Q I put it to you, witness, to explain this, that the trend of the market was upward, that from the low point on June 19th the trend was upwards and then when these rates were reduced there was a drop in



the market, and I suggest to you after that drop <sup>the</sup> /trend upwards again asserted itself so that when you take July 18th we are back to \$1.37 5/8. I suggest <sup>you</sup> to/that shows that the buyer has not reversed the trend of the market but he has taken advantage of the reduced freight rates on grain to Fort William. Do you agree with that suggestion?

A. Oh, I don't know. I would have to look at it. Offhand I would not agree.

THE CHAIRMAN: That is your theory.

MR. SINCLAIR: Yes.

THE CHAIRMAN: Is the converse true, that if freight rates had gone up instead of down would the price of wheat have gone up also an equal amount?

MR. SINCLAIR: Yes, it would have reflected itself in the market price as it did down in the United States.

THE CHAIRMAN: If the freight rate goes up the price of wheat goes up and if the freight rate goes down the price goes down.

MR. SINCLAIR: Yes.

THE CHAIRMAN: Have you examples of that happening?

MR. SINCLAIR: Mr. Armsmtong gave the example in Chicago of the effect when they put the price down, what happened to the market, and the effect of what happened when they put it up.

THE CHAIRMAN: He gave us that?

MR. SINCLAIR: Yes. I am suggesting to the witness it demonstrates how the buyers take advantage of a lower rate, and that the benefit of these lower rates does not go to the farmers. You would not agree with that?

THE WITNESS: No.

MR. SINCLAIR: Q. Where there is a trend in the market and the only difference that I know of is this reduction in freight rates, and it changes the trend to break it for just a short



it for just a short period and then the trend continues, can you give me any other explanation for that?

A. I think it may be in factors you don't know but I don't know without looking at it very closely.

Q. You would not think it was remarkable that we have two cases where there was a great deal of publicity given to a reduction in one factor in one case, and it had an immediate reflection on the market. You do not think that has any significance?

A. I think it is a remarkable thing you can formulate a theory on two empirical examples.

Q. What have you got to contradict them? I am looking for information. If you have any give it to me, and I will be glad to have it.

A. Any evidence that your theory is wrong?

Q. Yes.

A. I think the onus is on you to prove that the theory is right.

Q. Don't argue with me. If you have got evidence --

MR. FRAWLEY: I don't see what other answer he could give.

MR. SINCLAIR: Q. I am asking you if you have any evidence.

A. To prove your theory?

Q. To explain these market reactions in the periods --

A. I told you I haven't examined them.

Q. You didn't think it was worth while examining the example given by Mr. Armstrong?

A. No, that is not right.

THE CHAIRMAN: Would you please refresh our memory what particular freight rates did go down at that time?

MR. SINCLAIR: The Hoover administration in 1929 asked the railways to make a voluntary reduction on wheat to seaboard.





THE CHAIRMAN: To the Atlantic?

MR. SINCLAIR: Yes.

THE CHAIRMAN: All ports?

MR. SINCLAIR: To all export ports. They did that, and it was a matter that was given wide publicity, and the market, from the evidence given by Mr. Armstrong, reacted to take up the amount of the reduction by falling and reversing the trend for a short period, and the trend continued but at a lower level.

THE CHAIRMAN: That became effective in Winnipeg as in Chicago?

MR. SINCLAIR: Pardon?

THE CHAIRMAN: The market lowered all over North America, did it not?

MR. SINCLAIR: I have checked it on the Chicago wheat market. That is where the reaction was taking place, because it was the effectiveness of the production and exporting of American grain we were dealing with.

COMMISSIONER INNIS: This is in Mr. Armstrong's book.

MR. SINCLAIR: And also in his evidence here; he explained it here when he was on the stand.

THE CHAIRMAN: I think we were more concerned about the Canadian situation.

MR. SINCLAIR: After that was given, I may say --

THE CHAIRMAN: There was no such reduction in Canada?

MR. SINCLAIR: After that took place we made some investigations to see if this same reaction took place in Canada in 1922 when the Crowsnest Pass rates --

THE CHAIRMAN: I was presently asking you whether you looked to see whether there was a similar reaction in Canada in 1929 when these rates were lowered in the United





States.

MR. SINCLAIR: I haven't checked that, my lord.

THE CHAIRMAN: Mr. Armstrong didn't go that far.

MR. SINCLAIR: No, not as far as I know.

THE CHAIRMAN: All right. It is not hard to ascertain.

MR. SINCLAIR: No.

MR. FRAWLEY: Your lordship will recall Mr. Armstrong did not go into this July, 1922, instance at Winnipeg when he was on the stand. He contented himself with the Chicago example.

MR. SINCLAIR: As I have just advised the Commission, Mr. Frawley, I asked for the information to be developed, and now I have it for cross-examination of these experts who have been brought forward by the provinces on grain marketing.

THE CHAIRMAN: It seems to me that the case would be more complete if in addition to showing that the lowering of rates brings down the price you also had similar examples to show that the raising of rates puts up the price. If it is a constant rule it would operate both ways..

MR. SINCLAIR: I put to Dr. Britnell yesterday the effect on the average price of grain on the grain market during the periods when freight rates were going up, that is, 1918, 1920, 1921. I put that to him yesterday and he agreed with me that even though rates had gone up that that had not adversely or ruinously affected western agriculture.

THE CHAIRMAN: That is not the point.. The point is did it affect the price of wheat to the same extent when freight rates went up?

MR. SINCLAIR: Of course in those periods there was controlled marketing.



THE CHAIRMAN: Your theory is that the transportation costs are entirely paid by the purchasers of wheat overseas.

MR. SINCLAIR: Yes.

THE CHAIRMAN: And that the rates become a part of the price.

MR. SINCLAIR: Yes.

THE CHAIRMAN: You say that must be true by giving us one instance of where on this occasion when rates when down prices went down.

MR. SINCLAIR: Yes.

THE CHAIRMAN: For a short term.

MR. SINCLAIR: The trend continued though.

THE CHAIRMAN: How?

MR. SINCLAIR: The trend, my lord, was upwards, and the trend continued upwards but at a lower level.

THE CHAIRMAN: At a lower level than what?

MR. SINCLAIR: Then it was at before the reduction took place. The trend was this way, and all that happened was that the rates went down and the trend continued.

THE CHAIRMAN: It resumed. That is only half the case. Can you say also that when rates are increased that the price goes up and that the trend changes?

MR. SINCLAIR: Unfortunately for the Canadian Pacific and the railways of Canada, the only examples that we have of grain rates going up are in the period 1918 to 1921 when there was government control, and so we gave you examples in the United States where wheat did have market forces acting. These things are difficult to find because of the fact that the Canadian railways from 1925 have been unable to do anything with their rates on grain because they have stayed there at one fixed level no matter what happened to the market.

THE CHAIRMAN: Did the American rates also remain at a fixed level?



MR. SINCLAIR: The reaction of the American rates was shown in our appendix to part one of the brief at page 90. It shows the history of the rates on wheat in Canada and the United States from 1898 to 1949 comparing Whately, Montana to Duluth with Regina to Fort William. It shows in the United States that during the period 1922 to 1932 the rate in the United States was stable. It came down a little in 1932 and in 1933 went back up again to the 1922 level.

THE CHAIRMAN: When did it come back again?

MR. SINCLAIR: 1933, 1934, 1935.

THE CHAIRMAN: Did that going back affect the price of wheat?

MR. SINCLAIR: The difference there, my lord, I would say is about half a cent. It is pretty stable there from 1922 to 1938, and then we have the American rates going up a small amount in 1938 and not starting their real rise until we get into the war period until now the rate is up over 20 cents from the level of the 20's.

COMMISSIONER INNIS: Isn't the truth of the matter that you have such an exceedingly complex situation in the wheat market that it would be very very difficult to determine what factors were affecting it?

MR. SINCLAIR: I agree it is difficult, Dr. Innis, very difficult, but the point that I make -- and I do not want to take up time arguing it now -- is that there have been statements from the provinces made here that the farmer pays the transportation cost on grain. We had Dr. Britnell saying yesterday that he pays the transportation cost right from his farm to Europe; he pays it all. We have had other people who kind of left the impression that many at least have only paid one segment of the cost, only to Fort William.

Of course Dr. Britnell then said he tends to pay it.





He said yesterday in a complete sellers' market he would not pay it, he would not pay any, and in a complete buyers' market - and I think he took a rather <sup>exaggerated</sup> view of a buyers' market when you put the price down to zero -- he said that in a complete buyers' market that the buyer would pay all transportation costs. I think it is only logical to assume, as Mr. Armstrong said, that there are variations in between those two, and that the farmers may have paid some part of it.

COMMISSIONER INNIS: All that you have said illustrates the point of the conflicting views, and even the omniscience of Mr. Armstrong does not seem to be able to penetrate it.

MR. SINCLAIR: No, but I thought it was helpful to draw it to the attention of the Commission, and I have very remarkable instances to support the theory we have and until somebody can come forward with some examples that show them not to be sound I think they have probative value and that they should be given weight.

THE CHAIRMAN: You have not shown any increases.

MR. SINCLAIR: It is difficult to do so because we have been in the unfortunate position that we could not get rates up no matter what the cost of supplying the service is. I would feel confident if we had had an opportunity to raise the rates we would have been able to give you other examples.

COMMISSIONER INNIS: It is too bad we could not have that experiment carried out.

MR. COVERT: I was wondering if something like this could be done, if they could take the total rate over the period of years, not just the Crowsnest rate but the total rate from the farmer to the world market and show where there had been varying prices up and down, with that



Crowsnest rate being only one part of it.

MR. SINCLAIR: The difficulty with that - and that thought occurred to me -- was how am I going to get the rate. It is a tremendous job to get the rates on ocean liners, and it is a <sup>tremendous</sup> / job to find out what the rate is on the first segment from the farm to the elevators. Then I have the difficulty of finding how the traffic moves, rail, lake-rail or all water to Montreal. If Mr. Covert has some simple way for me to conduct this experiment I will be glad if he would tell me.

MR. COVERT: I have no simple way. I thought with the talent we have here from the west and the Canadian Pacific that the Canadian Pacific over a period of years surely would have some information like that. If it is important, Mr. Chairman, that there be shown some relation between the freight rate and the price I would have thought that over a period of years there would have records kept by someone, especially in the business.

MR. FRAWLEY: If it was fish we would have it all right.

MR. COVERT; You bet your life.

THE CHAIRMAN: There must be some relation because the price is always different at the extremity of the line than what it is at home. The question is who bears the burden of the intervening cost. We have two very positive assertions in both cases made by experts. We have one class saying that it is the producer in western Canada who pays the transportation and the other class on the other side of the water saying that is nonsense, that they pay it.

MR. COVERT: We want an expert in between.

THE CHAIRMAN: The point is who is right. I think Mr. Armstrong towards the end of his evidence summed it up this way, that in some cases they both contributed to paying the transportation cost.



MR. SINCLAIR: Yes.

THE CHAIRMAN: Is that right, Mr. Armstrong?

MR. ARMSTRONG: Yes, in certain instances the farmer pays some part of the cost.

(Page 19376 follows)



THE CHAIRMAN: Is that right, Mr. Armstrong?

MR. ARMSTRONG: Yes. In certain circumstances the farmer pays some part of the cost.

MR. SINCLAIR: I think Dr. Locklin - and he was a provincial witness, a provincial expert - said that the farmer was subject to the same economic laws as any other person; and as to this statement that the farmer paid the freight on everything he bought and everything he sold, he said it just was not sound.

THE CHAIRMAN: You can reflect on it for a few minutes. We shall take a recess.

--After recess.

MR. SINCLAIR: Q. I have a few questions in relation to your brief, Mr. Harries. On page 21, at the bottom of the page - and this was commented on yesterday to some extent - you say that "for the past fifty years a large segment of the rate structure has virtually been removed from the jurisdiction of the board."

THE CHAIRMAN: What page is that?

MR. SINCLAIR: Page 21, at the bottom, my lord. The statement to which I am directing attention is: "...for the <sup>past</sup> fifty years a large segment of the rate structure has virtually been removed from the jurisdiction of the Board."

From the context, I would take it that you are referring to the special and competitive rate?

A Yes.

Q. You would agree, would you not, that no shipper today can question before the board the compensatory nature of the grain rates?

A. That is right.

Q. But all that shipper can question before the board is the compensatory nature of any special or competitive rate. Is that correct?

THE CHAIRMAN: What is your point, Mr. Sinclair?





MR. SINCLAIR: I said, and the witness agreed, that no shipper could question before the Board of Transport Commissioners the compensatory nature of the grain rates.

The answer was "yes". I then asked him --

THE CHAIRMAN: Yes; because that is fixed by statute.

MR. SINCLAIR: That is right. I then asked him was it not true that all a shipper can question before the board is the compensatory nature of any special or competitive rate.

Q. What is the answer?

A. The reference I made yestertay <sup>was</sup> to Volume 17, page 3265, where the board said they were not concerned with the reasonableness of the competitive rates. I am not sure just what that means, whether it would mean that they are not concerned with whether they are compensatory or not.

Q. You know, of course, that that is not right, do you not? You know that the board is concerned with the compensatory nature of the rates, and that no rate is reasonable that does not pay.

MR. FRAWLEY: With respect, Mr. Chairman, I think my learned friend is pursuing a legal question with the witness.

MR. SINCLAIR: He raised the matter yesterday. I did not expect to ask him any questions on it. I thought it was a matter for argument, but he apparently felt competent to deal with the matter by his evidence yesterday.

THE CHAIRMAN: Has the board ever made any declaration to that effect?

MR. SINCLAIR: It has taken the position --

THE CHAIRMAN: I know that in the United States the Interstate Commerce Commission has, because I have read a decision and they have said: "This rate is not compensatory; therefore you must put it up."

MR. SINCLAIR: Yes.



THE CHAIRMAN: Have you anything here on that?

MR. SINCLAIR: We prepared a memorandum, and Mr. Evans put it on the record, as to the factors that were taken into account in assessing just and reasonable rates. Mr. Jefferson, when giving his evidence, also discussed the factors that were used in setting rates. In view of what the witness said yesterday, I thought it was only proper for me to pursue this subject with him.

MR. FRAWLEY: Mr. Sinclair asks the witness is a person not today free to complain to the board with respect to the compensatory nature or otherwise of a competitive rate. I suggest to my friend that he indicate to us where the board has, in any circumstances, thrown out, suspended or disallowed a competitive rate upon the simple ground that it was non-compensatory. My reading has not turned that up; but my friend's reading is much more extensive than mine, and perhaps he can point to a case where the board has, on the application of a shipper, or on its own motion, disallowed a competitive rate because it was non-compensatory.

THE CHAIRMAN: If Mr. Harries cannot answer the question, he can tell us so.

MR. SINCLAIR: That is the point. If he develops the point and starts to deal with it in chief, I think it is only right for me to see where he wants to go, how far he can go and how great his knowledge of the matter is. If he says he does not know, I am quite prepared to take his answer.

THE CHAIRMAN: What this brief says at page 21 is "...for the past fifty years a large segment of the rate structure has virtually been removed from the jurisdiction of the Board. "

What is that section of the rate structure? Is that these Crow's Nest Pass rates?



MR. SINCLAIR: No. He was at the time speaking of competitive rates. I established that with him in my first question. Then I was going to discuss this with him. If he is not prepared to discuss it, that is fine.

THE CHAIRMAN: As a matter of fact, there is an appeal to the board against any rate that is granted or that the railways may grant, on the ground of discrimination and so on.

MR. FRAWLEY: That is right.

MR. SINCLAIR: And that they are not just and reasonable.

MR. CRAWLEY: No, no.

THE CHAIRMAN: Just a minute, Mr. Sinclair; in so far as rates that are / "just and reasonable" are concerned, you have the section of the Railway Act, Section 325, which says that it shall be the duty of the board to fix and maintain rates which are just and reasonable. That is one thing.

MR. SINCLAIR: Yes.

THE CHAIRMAN: But if anybody wishes to complain about a rate in so far as it affects him, what else can he do than show unjust discrimination against him or discrimination?

MR. SINCLAIR: He can show that a rate is unjust or unreasonable if it does not meet the cost of providing the movement.

THE CHAIRMAN: If it does not what?

MR. SINCLAIR: Does not meet and give something more towards constant expenses, the cost of providing the movement.

THE CHAIRMAN: Show that the railway is giving a rate so low that it is not meeting its requirements?

MR. SINCLAIR: If he can. I say he cannot.

THE CHAIRMAN: How can he ever do that?

MR. SINCLAIR: That is why I am pointing up the distinction.

THE CHAIRMAN: What distinction?

MR. SINCLAIR: He says in this brief, or the western provinces say that there has been a segment removed from





the jurisdiction of the board, or virtually removed; and he says "Contrast that with our position."

THE CHAIRMAN: He says "has virtually been removed". He means this, that the board sets a ceiling and beneath that ceiling you grant low rates. But Mr. Jefferson told us there is less than five percent of the traffic of the country that moves on ceiling rates.

MR. SINCLAIR: Quite so.

THE CHAIRMAN: That is because the railways give lower rates than the ceiling rates.

MR. SINCLAIR: Quite so.

THE CHAIRMAN: And some of the commodity rates and others are competitive rates.

MR. SINCLAIR: Yes.

THE CHAIRMAN: If the competitive rate does not affect somebody prejudicially, how can he appeal? It is a case of reductio ad absurdum.

MR. SINCLAIR: But if the rate is unreasonably low in the sense that it does not meet the cost of the movement and provide something additional, the railways --

THE CHAIRMAN: Who then is affected? Not that particular shipper.

MR. SINCLAIR: Not that one, but all other shippers are because they have to pay higher rates than they otherwise would have to pay.

THE CHAIRMAN: What are they going to do?

MR. SINCLAIR: Complain to the board, point out that the rate is unreasonably low ; and they have that power under Section 325 to raise it.

THE CHAIRMAN: Have you any particular case in mind, Mr. Sinclair? Have you a single case you can cite, since there has been a board, in which any attempt has been made to do that?



MR. SINCLAIR: The answer to that, of course, is that I do not know of one; because it is not the principle of the railways to put in those rates.

THE CHAIRMAN: I think you would know of it if there had been one.

MR. SINCLAIR: But, my lord, the reason why there is not one is the policy of the railways. The traffic policy of the railways is not to put in rates that are unremunerative.

THE CHAIRMAN: Do you suggest that?

MR. SINCLAIR: Yes.

THE CHAIRMAN: We accept it.

MR. SINCLAIR: That is why I cannot point to a case.

THE CHAIRMAN: That is not the point. This brief says that a part of the rate structure "has virtually been removed" -- not legally but in practice -- "from the jurisdiction of the board. Do you think that is an exaggerated statement?

MR. SINCLAIR: I certainly do.

THE CHAIRMAN: You do?

MR. SINCLAIR: I certainly do; and I say it is insupportable.

THE WITNESS: I am quite prepared to try to defend it, Mr. Sinclair.

THE CHAIRMAN: You say that you, I or anybody else could go to the board and say that the Canadian Pacific Railway has a rate in effect in British Columbia or in Nova Scotia which is not competitive, and complain of that?

MR. SINCLAIR: That is not compensatory.

THE CHAIRMAN: Not compensatory, I mean.

MR. SINCLAIR: I do.

THE CHAIRMAN: Perhaps I could. But as I say, has anybody ever done it?



MR. SINCLAIR: No. The point is this. The statement is that there is a large segment virtually removed from the jurisdiction of the board. I am saying that in so far as the compensatory nature is concerned, it is not removed.

THE CHAIRMAN: In practice it is removed. Nobody has ever had recourse to it.

MR. SINCLAIR: When they say "removed" --

THE CHAIRMAN: You say that the board is there, and if any of these rates are unreasonable because they are too low, anybody can complain about it and the board can say, "Here, raise those rates"?

MR. SINCLAIR: Quite so. That rate is not removed from the jurisdiction of the board.

THE CHAIRMAN: No. Perhaps the language is a little bit too severe. He says "has virtually been removed". I do not know how I should proceed if I wanted to prove that you have a rate somewhere that is not compensatory; that is, if I was then talking without any particular grievance of my own.

MR. SINCLAIR: If you were the province of Alberta - and this is the province of Alberta I am speaking of you do not think they would know how to move? I suggest they would know very well.

THE CHAIRMAN: If they were not affected?

MR. SINCLAIR: Yes.

THE CHAIRMAN: If they were not affected?

MR. SINCLAIR: Yes.

MR. FRAWLEY: Suppose there was a rate in Nova Scotia that was too low. Does my friend say here that I could go to the Board and be listened to for a minute in complaining about that? They would at once say, "Where is your detriment?", just as they have said many times.

THE CHAIRMAN: It strikes me that would be the only sensible way to proceed.





MR. SINCLAIR: And Mr. Frawley would say, "Oh, it is a give-away rate."

THE CHAIRMAN: Unless there was some reasonable basis to be given, you would have the board doing nothing else but examining all your rates in the country, at the behest of anybody who is not affected in the slightest way, to see whether they are compensatory or not. What would the end of it be?

MR. SINCLAIR: He would have to make out a case when he filed application.

THE CHAIRMAN: Make out a negative case?

MR. SINCLAIR: I would not say it is a negative case.

THE CHAIRMAN: Can you not see the tremendous task he would have?

MR. SINCLAIR: All I am trying to do is to take the Railway Act and the jurisprudence of the board and contrast it with this statement.

THE CHAIRMAN: The Railway Act says that the board shall fix just and reasonable rates.

MR. SINCLAIR: Yes.

THE CHAIRMAN: And the board does that, and then you operate beneath it as much as you like.

MR. SINCLAIR: Yes.

THE CHAIRMAN: Provided, on your own rule, that you have no rates which are not compensatory.

MR. SINCLAIR: Yes; and the board will not allow us to have.

THE CHAIRMAN: Will not allow you to have?

MR. SINCLAIR: No.

THE CHAIRMAN: What cause have you for saying that?

MR. SINCLAIR: I have the statute.

THE CHAIRMAN: Yes, I know the statute is there. The brief simply says "virtually", which means just as if it was not





there, because it is only a person affected who would be listened to, it seems to me.

MR. SINCLAIR: I would still say, with respect --

THE CHAIRMAN: That the board will sit down and listen--

MR. SINCLAIR: If you can make out a case.

THE CHAIRMAN: -- to a resident of Alberta who is raising a complaint that a certain rate between Halifax and St. John is not compensatory.

MR. SINCLAIR: Yes.

MR. FRAWLEY: Oh happy day!

MR. SHEPARD: If I may, I should like to add that they would listen to the resident of Alberta who must find out that the rate is not compensatory; and the only way he can find that out would be from the railroads.

THE CHAIRMAN: Is it worth while taking up our time on the matter?

MR. SINCLAIR: The point, my lord, is that the witness comes from Alberta, reads this statement, deals with it, tries to put an interpretation on it, and quotes from cases. I say that he should be prepared to discuss that matter, if that evidence is going to have any weight.

MR. FRAWLEY: He says he is.

THE CHAIRMAN: How do you want to discuss it? You are discussing the legal aspect.

MR. SINCLAIR: That is what he was discussing yesterday.

THE CHAIRMAN: This witness is not qualified professionally to deal with legal matters.

MR. SINCLAIR: I can only follow the line, in cross-examination, that has been opened up by my friend in examination in chief, by having the witness deal with it.

THE CHAIRMAN: Is that not a matter for argument? And we are to have argument.

MR. SINCLAIR: Very well, my lord.



THE CHAIRMAN: What I mean is this. The Act is there. It speaks for itself. You tell me that you do not know of a single case since 1903 where anybody would go to the board with such an application as I suggested to you. Those are facts.

MR. SINCLAIR: There could be, without my knowing of it; but I say as far as I know there is not one; and I give the reason why I do not think there have been any.

THE CHAIRMAN: You just say that, as a matter of law, any person at all can go to the board and ask the board to hear him.

MR. SINCLAIR: Any shipper.

THE CHAIRMAN: Any shipper? You have qualified it.

MR. SINCLAIR: Any person who has a right to have a just and reasonable rate for himself.

THE CHAIRMAN: Oh, there you are. But that is quite a different thing. You told me a while ago that any resident of Alberta, for instance, could go to the board --

MR. SINCLAIR: Who is paying freight rates.

THE CHAIRMAN: I beg your pardon?

MR SINCLAIR: Who is paying freight rates.

THE CHAIRMAN: Oh, we know that. We are not discussing that.

MR. SINCLAIR: I do not mean on the basis of discrimination; I mean any person who is paying freight rates, if he is buying peanuts --

THE CHAIRMAN: We are all likely to pay freight rates at some time or another. I have paid them.

MR. SINCLAIR: If Mr. Frawley was shipping peanuts --

MR. FRAWLEY: From Edmonton to where?

MR. SINCLAIR: From Claresholm to Winnipeg, and he felt that there was a rate on fish from St. John --

THE CHAIRMAN: A rate untroubled did you say?



MR. SINCLAIR: A rate on fish from St. John to Montreal that was non-compensatory to the railroad, I say he could go to the board; and if he could make out a case, the board under the statute is duty-bound to raise that rate to a level that is compensatory.

(Page 19390 follows)





THE CHAIRMAN: How will he prove that it is not compensatory?

MR SINCLAIR: That is his problem.

THE CHAIRMAN: Well, let us assume that is the law.

MR SINCLAIR: That is his problem. I say that there are none.

THE CHAIRMAN: There are not any that are not compensatory?

MR SINCLAIR: No, except the ones that we have brought out in our brief.

MR FRAWLEY: That is a big exception.

MR SINCLAIR: Well, they are, livestock from Western Canada and coal from Alberta.

MR FRAWLEY: How about the at and east rates or something like that?

MR SINCLAIR: May I ask my friend Mr. Frawley -- and I think it would be wise at this time to clarify it, because he has mentioned it twice -- whether it is the position of Alberta that they would support an application from the Canadian Pacific to raise the rate ex lake ports to Montreal for grain?

THE CHAIRMAN: To raise the rates what?

MR SINCLAIR: Ex lake ports to Montreal.

MR FRAWLEY: You make the application and I will tell you.

MR SINCLAIR: I am asking now, because you seem to get some comfort out of it. I think my friend should either make a statement now or should stop talking about it.

THE CHAIRMAN: I am not sure that I have your statement.

MR SINCLAIR: Mr. Frawley asks about the at and east grain rate; that is the rate from say Port McNicoll



to Montreal.

THE CHAIRMAN: What do you call them?

MR SINCLAIR: At and east, Atlantic and east, at and east grain rates. He has mentioned them on a number of occasions. Now, I think it would be very helpful to the Commission, and certainly would be helpful to me, if Mr. Frawley could advise now whether Alberta -- and he is speaking for Alberta, and he has mentioned this a number of times, and I presume he has instructions -- would support an application of the railways to raise the at and east grain rates.

THE CHAIRMAN: Where do these rates start?

MR SINCLAIR: Ex lake ports, my lord.

THE CHAIRMAN: And they go down to Montreal and Halifax and Saint John?

MR SINCLAIR: That is right.

THE CHAIRMAN: Well, are you seeking to have those rates increased?

MR FRAWLEY: No, no.

THE CHAIRMAN: By the way, those rates apply on all grain, wherever it originates in Canada? In Ontario, for instance, the same as---

MR SINCLAIR: Yes, they are governed by the port differentials, Buffalo-New York, Buffalo-Baltimore.

THE CHAIRMAN: I mean, they do not only apply to western grain, they apply to all grain?

MR SINCLAIR: Well, they are export rates.

THE CHAIRMAN: They are export rates?

MR SINCLAIR: Yes.

THE CHAIRMAN: I mean, if any wheat were exported from Eastern Canada between those same points it would get the same treatment?

MR SINCLAIR: Yes.



MR FRAWLEY: You see, my lord, away back in 1946 we filed a brief with the Transport Board in the 30% Case, just by way of comparing rates in one part of Canada with those in another, and we quoted tariff there to show that grain moves in Eastern Canada at less than the Crow's Nest Pass grain rates.

MR SINCLAIR: Whereabouts?

MR FRAWLEY: The tables were used as far back as 1937 in a submission prepared for the Province of Alberta, called the Case for Alberta, and that was all gone into in 1947 before the Transport Board. I have not got those tariffs in front of me.

MR SINCLAIR: Would you like to do it on today's rates?

THE CHAIRMAN: Pardon me. What did you show, Mr. Frawley?

MR FRAWLEY: We showed at that time, quoting the tariffs, that grain moved in Eastern Canada from a point -- I think we used London, Ontario, and Windsor, Ontario -- to Saint John, New Brunswick, I think.

THE CHAIRMAN: For export?

MR FRAWLEY: Oh, yes, export; at less than these much-maligned Crow's Nest Pass rates which move grain in Western Canada. That is all; we simply showed the comparison.

MR O'DONNELL: It had changed, though, hadn't it? It is much higher today.

THE CHAIRMAN: That was in 1946?

MR FRAWLEY: Yes, at the time of the 30% Case.

MR O'DONNELL: Then they could not raise the rates.

THE CHAIRMAN: That is when the rates were held down, were controlled; is that so? Is that when the rates were under control?

MR FRAWLEY: Oh, no. These were competitive tariffs





for carrying grain from points in Western Ontario to the seacoast, to Saint John.

MR O'DONNELL: Trade Board Order No. 92 was in effect at the time.

MR FRAWLEY: That may be. I was simply showing---

THE CHAIRMAN: Are you complaining about those rates, or just showing them as an illustration?

MR FRAWLEY: Just as an illustration to show that these rates were not the lowest rates in the world, which is the impression the Canadian Pacific seeks to give us, that is all.

THE CHAIRMAN: Have you any material before us showing that?

MR FRAWLEY: No. These tariffs were not filed, and, as Mr. O'Donnell says, the situation today may be that those rates which I was quoting in 1947 to the Transport Board, those Eastern Canadian rates, may have gone up, may have taken increases.

THE CHAIRMAN: Well, Mr. Sinclair, we are trespassing on your time.

MR SINCLAIR: It is very useful to explore some of the statements made by my friend Mr. Frawley.

THE CHAIRMAN: What about those rates that Mr. Frawley refers to?

MR SINCLAIR: The at and east grain rate today, my lord---

HIS LORDSHIP: No, he is going back to 1946.

MR SINCLAIR: That is too far back for the information I have here.

THE CHAIRMAN: He told us that those rates which then prevailed, under which grain from Ontario was shipped to the ports, were lower than the Crow's Nest Pass rates.

MR SINCLAIR: That is what he says.





THE CHAIRMAN: Have you anything to say about that?

MR SINCLAIR: Well, I don't know. I say today that the rate -- and I think this may be useful, seeing that it has been raised---

THE CHAIRMAN: Couldn't you -- well, I must not interrupt you.

MR SINCLAIR: I am instructed by our traffic officer that the information as given by Mr. Frawley is not accurate.

THE CHAIRMAN: Is not accurate?

MR SINCLAIR: Yes; and today I think that the at and east rate from Port McNicoll to Montreal for export, a distance of 449 miles, is 18.17¢, and from Marquette, Manitoba -- that is on the Carberry Subdivision of the Canadian Pacific -- to Fort William, a distance of 448 miles, the rate is 15¢. There is comparable distance and comparable rates at and east to Montreal.

Q. In view of the statements made by your counsel, Mr. Harries, can you point to any competitive rate in Canada where the ton mile earnings are below one half cent per mile, as is the case of grain moving on the Crow's Nest rates?

A. I have not examined all to find whether there are any.

Q. Do you think there are any?

A. I don't know.

Q. Now, on page 24, in the third paragraph, you are dealing with the extensions to commodities other than grain and flour of the Crow's Nest rates. I would like first to discuss with you bran and middlings. Now, bran and middlings move at Crow's Nest rates; that is correct?

A. Yes.



Q. Now, is there anything in section 325(5) of the Railway Act that requires bran and middlings to move at Crow's Nest rates?

A. I do not think so.

Q. You have read that section?

A. Well, a number of times. I would like to have a look at it.

Q. Well, I suggest to you that it is not.

A. Well, I accept your suggestion.

THE CHAIRMAN: You say it is not?

MR SINCLAIR: No.

MR FRAWLEY: The expression is "grain and flour". I suppose that is what my friend refers to.

MR SINCLAIR: Yes.

THE CHAIRMAN: What reason is there? I think it is in your brief. Why do you give these lower rates on by-products?

MR SINCLAIR: Well, I think, my lord, that it is this -- and I think that maybe the witness will agree with me -- that it would be practically an insurmountable task for the railways to secure a rate on the by-products of the milling process higher than the end product -- that is, to have a rate higher on the by-products, bran and middlings, than on flour. And I think that is pointed up very well by the fact that the local rates on grain in Western Canada -- we have not been able to have them raised, even though the Board has jurisdiction, because---

THE CHAIRMAN: The local rates on grain in Western Canada?

MR SINCLAIR: Yes.

THE CHAIRMAN: Just about those local rates, what are they? To what extent are they affected by the Crow's Nest Pass rates?



MR SINCLAIR: That is just what I was going to discuss, my lord. Even though the Board has jurisdiction over them, they were not raised in the 21% Case, nor were they raised in the 20% Case.

THE CHAIRMAN: You mean not raised by the railway.

MR SINCLAIR: We tried to have them raised, my lord, but the Board took the position that if they were raised they would create too great a disparity with the Crow's Nest level, and that is one of the points we make.

THE CHAIRMAN: Pardon me. When you say raised, are they now at the Crow's Nest level?

MR SINCLAIR: Oh, no; they are considerably above, considerably above.

THE CHAIRMAN: What do you say then?

MR SINCLAIR: That is one instance where the Crow's Nest Pass level of grain rates, being fixed by statute, have an all-persuasive effect and pervading effect on other rates that are under the jurisdiction of the Board, but which are affected materially and take on the rigidities of a statutory control of rates of one segment of the rate structure.

THE CHAIRMAN: Now, what precisely did the Board say on that occasion about them? You have not got it there, have you?

MR FRAWLEY: I can read it to your lordship. It is at page 63 :

"Inasmuch as no advance was applied for or is being made with respect to the rates on grain and grain products from points within Western Canada to the head of the lakes, and Armstrong, Ontario, or to British Columbia coast points when for export, it is considered that no increase should be authorized in the domestic grain and grain products rates between points in Western





Canada or with respect to the feed grain rates covered by C.F.A. Tariff 145, C.T.C. 154. To increase these rates with no increase in the others would create a spread in the rates, which, it is considered, would be unreasonable."

That is all they say, sir.

MR SINCLAIR: What they said was enough.

MR FRAWLEY: Well, I say they stopped at that point.

MR SINCLAIR: It is your inflection that bothers me sometimes.

Q. Now, do I take it from this paragraph on page 24 that the western provinces would support the railways in an application before the Board to increase the rates on bran and middlings?

A. I do not think that you could draw that conclusion from our statement there.

Q. You would say they would not support the railways in such an application?

A. I have not considered it.

MR FRAWLEY: That is not what he said at all.

THE WITNESS: I do not think there is anything in here that suggests we would or we would not.

MR SINCLAIR: Q. Have you consulted or thought about that problem at all?

A. No, I have not.

Q. Now, you deal with distillers' dried grain and beet pulp residue; you say:

"The cost of extending the Crow's Nest Pass rates to such things 'as brewers' and distillers' dried grain and beet pulp residue is infinitesimal."

That is the last sentence, right near the bottom of the page. Before you made that statement I presume you consulted about it, and it has been settled with the various provinces?



A. I wrote the statement, yes.

Q. And this whole brief was discussed with the other western provinces?

A. Oh, yes.

Q. And it has been passed by them. Now, if the cost of extending is infinitesimal, if those rates were raised I presume also it would be of no concern to the western provinces?

A. I have not canvassed that, Mr. Sinclair.

Q. Now I would ask you to assume with me that the Crow's Nest Pass rates do not meet the cost of movement and leave something toward constant expenses; under those circumstances does Alberta feel that there should be a subsidy paid to the grain shippers of Western Canada?

A. If they do not pay their cost of movement?

Q. And give something to constant expenses.

A. Well, I think that you would have to look at them over a period of time and so on before you reached any conclusion about their compensatory nature, and look at what you would expect the price level to be in the future, and so on. It is rather a hypothetical question, Mr. Sinclair.

Q. So today that would prove that the grain rates were not compensatory?

A. That is, they were not in the year 1949, you mean?

Q. Right now.

A. Yes.

Q. Right at this moment, they are non-compensatory.

A. Then I would say that that did not prove a thing.

THE CHAIRMAN: Q. What do you say then?

A. I would say that would prove nothing, that today they were not paying their way.

MR SINCLAIR: Q. Do you think that if they were non-compensatory throughout 1949 that would necessitate them



being raised?

A. No, I do not think so.

Q. Do you think that other rates at certain times should be non-compensatory to the railways?

A. It depends upon the circumstances. In general our position has been clearly stated. We think that rates should be compensatory, yes.

Q. And does that include the grain rates?

A. Oh, yes.

Q. And would the same criteria apply to grain rates as would to other rates?

A. How do you mean, the same criteria?

Q. Well, I think that you told me when you were discussing one of the briefs of Alberta that you felt that if the rates on Alberta coal, for instance, to Ontario points were non-compensatory, they should be raised?

A. I do not remember that, but I---

Q. I think you will find it in the transcript. Now, would you also say the same about grain rates?

A. On the grain rates you have to take the long look, not just a year or a month. That is my point, Mr. Sinclair.

Q. Do you have to take the long look at coal?

A. Not to the same extent, no. There is one thing: The coal rates are not under statute, which is quite a different proposition.

Q. Well, I am suggesting that the principles of rate-making that you want to -- I am trying to explore the principles of rate-making that you want to apply to grain.

A. That is why we say it should be left under the control of Parliament, because you have a different proposition with grain than you have with these other commodities, Mr. Sinclair. We do not think that the same considerations precisely would apply in the matter of grain rates, and for that





reason that they should be left with Parliament, because they are part of the national policy and affect Western Canada to a much greater extent than do the coal rates, for instance.

Q. Can you tell me how western farmers would be harmed if the Board on the established principles of rate-making fixed just and reasonable rates for grain, and the farmers if they needed assistance secured that assistance from the Dominion Government?

A. It is not a matter of -- it is what is involved in your concept of just and reasonable rates, Mr. Sinclair. That is my point.

Q. Well, I am suggesting to you that they fix a just and reasonable rate on grain on the established principles of rate-making, and my question, Mr. Harries, is, how would the farmer be harmed under those circumstances, if he needed assistance that assistance was given to him by the Dominion Government?

A. You are making the assumption, are you, that they are not just and reasonable today, and needed assistance from them?

Q. I am asking you, if they are fixed at a just and reasonable level on the established principles of rate-making, how would the western farmer be harmed, if he needed assistance he receives such assistance from the Dominion Government?

A. I do not know. Maybe the western farmer is like the C.P.R. and does not like the idea of subsidies. It might be harm to get subsidies. That is what I thought the C.P.R. position was, that it was harmful to receive subsidies. I do not know; I mean, I cannot answer that question.





Q. You cannot answer the question?

A. No.

Q. You don't know how he would be harmed?

A. I have not considered the way in which he would be harmed, no.

Q. The position has been put forward in the Canadian Pacific Brief some months ago. Didn't you give consideration to that?

A. I don't think that is specific. There is so much there.

Q. You don't think that thought was there?

A. No, I did not read the subsidy argument particularly.

COMMISSIONER ANGUS: Mr. Sinclair, have you any test of need in mind there? You say the farmer needs assistance, he gets the subsidy.

MR. SINCLAIR: Dr. Angus, the way I look at it is this, that the grain economy is part of the overall economy. At some times the grain economy gets out of balance with the other economy. When it does, on account of drought, on account of inability to convert currencies or any matters of that kind, then the western farmer may need assistance. But as long as the western economy does not get out of balance with the rest of the Canadian economy, the drop or rise in costs generally will be reflected in freight rates and he will not be harmed. That is my theory, my proposition.

COMMISSIONER ANGUS: By not being harmed, you mean he will be as well off as if the rates - -

MR. SINCLAIR: Were not fixed under the Statute. That is all I have for Mr. Harries.

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MR. SHEPARD: Mr. Chairman, the next witness will be Mr. R. E. Moffat, who is Economic Adviser to the Manitoba Government, and he will be appearing on behalf of Manitoba to support the joint submission of the three Prairie Provinces. His qualifications are in the Transcript, Volume 43 at page 8634. I had intended to lead him in direct examination, but in order to save the time of the Commission, if it is agreeable to the Commission, I would suggest that the statement of Mr. Moffat's intended evidence be taken into the record at this point as if it were read out by him.

THE CHAIRMAN: Why was not this statement given to all concerned?

MR. SHEPARD: It has been.

THE CHAIRMAN: In proper time.

MR. SHEPARD: Well, it was only written yesterday, sir, it is not an expansion of the Brief; it is simply the direct examination that I had intended to conduct by question and answer with Mr. Moffat, and Mr. Moffat only arrived here yesterday.

THE CHAIRMAN: I suppose without this Brief you would have examined him on the Provincial Brief, is that it?

MR. SHEPARD: Yes.

THE CHAIRMAN: What is this, is this a departure from the Provincial Brief?

MR. SHEPARD: No, sir, not in any way. It supports it and it is in fact the evidence that would have resulted if I had examined him directly by question and answer.

THE CHAIRMAN: Have you seen this Brief, Mr. Sinclair?



MR. SINCLAIR: Yes, my lord. It was given to me by my friend Mr. Shepard yesterday.

THE CHAIRMAN: Do you feel prejudiced in any way by having it so late?

MR. SINCLAIR: No, I have a few questions for Mr. Moffat. I understand that there were difficulties. Mr. Moffat did not arrive here until late and I quite understand that Mr. Shepard gave it to me as soon as he could.

THE CHAIRMAN: All right, Mr. Shepard.

MR. SHEPARD: I didn't intend then to ask any questions of the witness, and he is available for questioning by anybody.

THE CHAIRMAN: I see. He just files this memorandum, is that it?

MR. SHEPARD: Yes, sir, takes this as his statement of evidence as if he had read it into the record, because that is really what it is.

(Statement follows)





STATEMENT OF EVIDENCE OF  
R. E. MOFFAT  
ON BEHALF OF THE PROVINCE OF MANITOBA

The witnesses on behalf of Alberta and Saskatchewan have each dealt with a part of the joint brief. On behalf of Manitoba, I am instructed to state that we are in full support of all that is said in the Brief and to emphasize some of the major issues with which the Brief deals. We also propose to refer to several points which were raised in the evidence submitted by the C.P.R. since the joint brief on behalf of the three Prairie Provinces was prepared.

The concluding sentences of the historical section of the joint Brief read as follows:

"The considerations which, at the turn of the century, gave rise to parliamentary action with respect to grain rates are as valid today as then. In fact, experience has demonstrated and emphasized the importance of an additional relevant circumstance, the inherent instability of an economy so dependent on the vagaries of nature.

Stability of transportation costs at the lowest possible level is absolutely essential to the survival of the wheat economy. This at one and the same time imposes the necessity for the continuation of Crow's Nest grain rates and for the protection of their integrity by Statute. The continued ability of the Prairie Provinces to play their part in the Canadian economy is dependent upon the prosperity of the wheat producers. Stable grain rates at a minimum cost are essential to that prosperity".

The proof of this proposition needs no demonstration



to anyone who is familiar with the facts of western agriculture and its place in the Canadian economy as a whole. We do, however, wish to re-emphasize it now in the light of the evidence which was submitted on behalf of the C.P.R., to the effect that in the opinion of the C.P.R., western agriculture would not be seriously injured by being called upon to pay a level of grain rates even as high as double the present rates. (Jefferson, Vol. 77, p.15621; Armstrong ).

It may be asked: "What are some of the considerations which gave rise to parliamentary action on grain rates in the past and which are as valid today as then?"

First and foremost is the fact that railway transport has an absolute monopoly on the movement of grain to market. Today that monopoly is as complete as it ever was and there seems no possibility that in that field the railways will ever have any serious rival. Great changes have taken place in farming methods and in the method of moving grain from the farms to the nearest railway point. But once it reaches a rail shipping point the grain goes to Fort William or Vancouver by rail and the railways have a complete monopoly which would allow them to raise their charges to many times their present level without any real danger of losing the traffic to other forms of transportation. To protect itself against that monopoly the West must look to something other than the competition of other carriers. For fifty years it has looked to the rates set by Statute and in the view of the Manitoba Government the West must continue to depend upon statutory control of those rates.

In the second place, the production of grain and the transportation of grain is still Canada's greatest industry. If the grain industry is prosperous, Canada is prosperous. If incomes for grain are down, the whole level of



Canadian business activity is down. In recent years other factors and other industries have increased greatly in importance. But for Canada as a whole and for Canada's railways in particular it is still true that grain production is the key to prosperity. It follows, therefore, that the grain industry is of such great national importance to Canada that it is almost inconceivable that anybody other than the elected representatives in Parliament should be given the authority and responsibility of dealing with it. Ultimate responsibility must remain there and in this case it is both possible and desirable that immediate responsibility should remain there also.

At the bottom of Page 24 and the top of Page 25 of the mimeographed copy of the Joint Submission the following appears:

"It has been argued that the existence of statutory rates militates against the establishment of just and reasonable rates for traffic other than that which is handled at the statutory level.

This argument is premised upon the assumption that grain rates under the Statute do not in themselves provide a satisfactory return to the carrier. If the grain rates pay their way, on a reasonably compensatory basis, the fact that they are fixed by Statute cannot affect the just and reasonable character of other rates."

It is obvious that any argument by the C.P.R. to the effect that other users of railway service in Western Canada or in Canada as a whole are penalized because of the existence of the Crow's Nest Rates presupposes that it has been established that the grain rates are unremunerative. The whole question of the profitability of grain rates has been excluded from the evidence before your Commission. Con-





sequently the provinces have submitted no counter-evidence to disprove the presumption upon which the C.P.R. bases this part of its case. We do wish, however, to clearly record the fact that we do not accept that presumption and that consequently we do not concede that any burden is passed on to the other users of railway service because of the existence of the Crow's Nest Rates.

On Page 27 of the Joint Brief it is stated:

"It has been suggested that a rate established in 1897 is prima facie an unreasonable one under today's conditions, . . .

Rates which were established in 1897 are not prima facie unreasonable under today's conditions. Technological advances have been too great and traffic changes too many to automatically assume this."

The contention of the C.P.R. that a rate established in 1897 is prima facie unreasonable today overlooks two fundamental issues.

In the first place it assumes that the rate in 1897 was proper. But it is quite possible that the 1897 rate was too high. In fact, we would suggest that the mere fact that the railway was willing to institute that rate at that time is prima facie proof that, judged by present standards, it was too high. Furthermore, in 1902 the C.P.R. of its own initiative reduced its rates substantially below the Crow's Nest level and left them at that lower level for seventeen years. This again is strong evidence that the 1897 rate was unjustifiably high.

In the second place the contention that a rate established in 1897 is prima facie unreasonable today overlooks the changes in traffic conditions and operating efficiency in the intervening fifty years. Exhibit No. 159 filed by the C.P.R. shows the production of grain in the





Prairie Provinces 1898 as compared with the years 1946, 1947, 1948, and shows that in the three-year period 1946-48 the grain crop has averaged 13.2 times the size of the crop in 1898. The rate level which may have been appropriate for the small volume of grain traffic in 1898 might very well be many times higher than the rate which would be appropriate for the tremendously greater volume which is carried at the present time. In this connection, too, we would like to direct attention to the statement on Pages 28 and 29 of the Appendix to Part One of the Submission of the Canadian Pacific Railway Company to your Commission, where it is stated:

"The Policy of the Canadian Pacific from its earliest days, has been to construct its railway plant to standards in keeping with the character and extent of traffic in prospect, and to enlarge and improve that plant as traffic increased. To this policy can be attributed in no small measure the survival and success of the railway as a private enterprise.

As Canada grew Canadian Pacific not only extended its lines to serve new sections of the country, but also made improvements to older property. The capacity and efficiency of the plant has been increased by greater capacity of freight cars and locomotives, improved roadbeds, heavier rail, installation of automatic signals and improvements and additions to terminal facilities. The carrying capacity of freight cars grew from 10 tons to 20, 30, 40, 50, 75, and now 100 tons or more. This was possible only by corresponding improvements in motive power, track structure and facilities. Motive power developed from very small low-pressure simple steam locomotives with light loads of 35,000 lb. per axle, or less, up to the modern steam locomotive of high super-



heat, high steam pressure, with feedwater heaters and axle loads in excess of 65,000 lb., these high loads being supplemented by numerous technological improvements giving better performance and efficiency.

These changes in rolling stock carried with them corresponding increases in the weight of rail from 50 lb. per yard to 60, 70, 85, 90, 100, and now 130 lb., improvements in track fastenings and ballast, as well as major changes in the carrying capacity of bridges."

It is true, that in this quotation the C.P.R. is attempting to build up its submission that it has need of further revenue in order to be able to continue to finance improvements of this sort. But if the carrying capacity of freight cars has grown from 10 tons to " . . . 75 and now 100 tons, or more" and there have been "corresponding improvement in motive power, track structure and facilities", it would seem that any statement that rates are unreasonable simply because they have not been increased since 1897, is merely based upon the unsubstantiated assumption, that the savings which have resulted from technological improvements and from the great increase in traffic volume, have not been sufficient to offset increases in operating costs resulting from various factors. Obviously, it would not be appropriate for us to offer evidence as to the cost-reducing effect of technological improvements and increased traffic volume, in the light of the ruling of your Commission that you do not consider it necessary to deal with the question of the profitability of the grain rates. But we do wish to make it clear that the mere statement that grain rates have not been increased since 1897 cannot be accepted as evidence of any value as to whether the present level of grain rates is or is not proper.

In this connection, also, we would like to refer



to the evidence of Mr. Jefferson during his examination in chief, where, at the bottom of page 15260, Volume 75, Mr. Carson asked him:

"I take it from what you have said, that you are of the definite opinion that statutory rates on grain and flour from the Prairie Provinces to the head of the Lakes, and to Vancouver for export, are too low. Have you any further observation you desire to make on this subject?"

A. "Yes, Sir, I am very strongly of the opinion that any rates today which are below the 1898 level are too low and not in proper relation to rates on other commodities which are on a much higher basis. As far as I know, no one ever attacked western grain rates on the basis that the rates published pursuant to the Crow's Nest Pass Agreement were too high.

This, in itself, should be sufficient to prove that the rates are too low, having regard to the level of wages and cost of materials and supplies today, in comparison with such costs fifty years ago."

At that point Mr. MacPherson suggests that this answer is leading into the question of compensatory rates and Mr. Jefferson does not elaborate the thought in the last two sentences.

Mr. Jefferson's logic scarcely calls for comment.

We would point out, however, that there is evidence that the 1922 rates were too high. In 1922 the railways voluntarily offered to make drastic reductions in the freight rates for certain basic commodities if they were allowed to retain control of those rates subject only to the Board of Railway Commissioners. As part of that proposal the railways indicated that they would reduce grain rates to a level which was not greatly different from the level which was<sup>established</sup>







by the statutory provisions. In moving the adoption of the report of the Special Committee on Railway Transportation Costs, in the House of Commons on June 25th, 1922, Hon. A. K. McLean of Halifax, Chairman of that Committee said this at page 3552 of Hansard:

"It will take only a moment to give to the House these commodities and the reduction which the railways proposed. They proposed a reduction of 20 per cent in the grain rates. That virtually meant bringing the grain rates in the West down from where they now are, two-thirds of the way to the Crow's Nest Pass rates upon grain, or it was a reduction of about 66 per cent. A further reduction of about 10 per cent would have brought the rates upon grain down to the Crow's Nest Pass rates. In fact, in the province of Manitoba the grain rates under this proposal would have been practically down to the Crow's Nest Agreement rates.

In Alberta and Saskatchewan the difference would have been anywhere from one cent up to two cents. They proposed a reduction in forest products of 16.66 per cent, and reductions on coal varying from ten to twenty cents per ton, or on an average of ten per cent; and reductions on building material, such as brick, cement, lumber and plaster; and on other basic commodities, such as potatoes, fertilizers, ores, pig-iron, billets, wire rods and scrap-iron, which average about 18.3 per cent. On the last-mentioned commodities the reduction proposed was 16.66 per cent; on building material in the West it was 16.66 per cent and in the East 20 per cent. That was the proposal of the railways, which was in effect this, they urged a further complete suspension



of the agreement, voluntarily submitting to the order of the railway board in respect of these suggested reductions, and leaving all other rate matters to the judgment of the Board of Railway Commissioners."

It is not our purpose, at this point, to attempt to give all background of the hearing before the Committee in 1922 but we do point out that this proposal was made by the railways and we would relate it to the suggestion by Mr. Jefferson (Vol. 75, p. 15261) that the mere fact that no one has attacked "Western grain rates on the basis that the rates published pursuant to the Crow's Nest Pass Agreement were too high" is "sufficient to prove that the rates are too low, having regard to the level of wages and cost of materials and supplies today". We respectfully suggest that the mere fact that the railways were willing in 1922 voluntarily to reduce their grain rates and all these other commodities by the percentages mentioned in the above quotation is the strongest sort of evidence that in the opinion of the railways themselves some substantial reduction in rates was called for.

One other subject we would like to refer to briefly; namely Exhibit 170 in which the C.P.R. shows its revenue per ton mile in Eastern Canada and Western Canada on all traffic, and on grain and grain products separately, and on all traffic except grain and grain products. This table shows that in every case the revenue per ton mile is higher in Eastern Canada than in Western Canada. It does not, however, make any reference to the difference in the length of haul in the two areas or to the difference in the character of traffic in the two areas, or to the difference in operating conditions in the two areas. The figures for 1949 are not available to us but for the sake of illustrating the importance of the differences in the length of haul, we



have re-stated the 1948 figures showing the revenue per ton and the average distance which a ton of freight was moved in 1948. Those figures are as follows:

	<u>Western Region</u>			<u>Eastern Region</u>		
	Ave.Rev. per Ton Mile (cents)	Ave. Haul (miles)	Ave.Rev. per Ton (dollars)	Ave.Rev. per Ton Mile (cents)	Ave. Haul (miles)	Ave.Rev. per Ton (dollar)
Grain and Grain Products	.55	561	3.09	.62	599	3.72
All Traffic	1.03	435	4.46	1.35	299	3.80
All Traffic except Grain and Grain Products	1.31	383	5.14	1.57	259	4.06

If we might direct your attention, in the first instance to the last line of the table, it is shown that for all traffic except grain, the 'average charge paid in Western Canada was \$5.14 per ton for a haul of just over 380 miles, while the average charge paid in Eastern Canada was \$4.06 per ton for an average haul of just under 260 miles. Those figures correspond to the average revenue per ton mile figure quoted in Exhibit 170 but it does seem to us that they offer a much better perspective of the situation. As to whether the Eastern rates are lower than the Western rates, and as to the amount of any such differential, there is room for a good deal of argument and we simply refer you to the Manitoba Submission at page 126 in the printed copy and to the Appendix to the Manitoba Submission.

We would make one further comment with respect to the figures for grain and grain products as shown in this table. In the case of the traffic in the Eastern region in grain and grain products, what is involved is to an almost overwhelming extent, the movement of Western grain either to



markets in Eastern Canada or to seaboard for export.

Consequently, the fact that grain rates are higher in the East than in the West is of no assistance to Western Canada for those charges are charges on Western grain in any event and the rates charged on traffic moving over lines in Eastern Canada are not paid by people living in Eastern Canada.





THE CHAIRMAN: Then does anybody wish to question Mr. Moffat?

MR. SINCLAIR: I have a few questions that I would like to ask, but I presume there will be others, and I would rather go last.

MR. COVERT: I have no questions, Mr. Chairman. I read it over. It doesn't seem to me to bring up anything new, and I have no questions to ask of him. I just want to make sure that the reporter has a copy.

THE CHAIRMAN: Mr. Sinclair then.

CROSS-EXAMINATION BY MR. SINCLAIR:-

Q. Mr. Moffat, there is quite a discussion in this statement about the fact that the railways have the monopoly of carrying the grain to lake head?

A. Yes, that is correct. One of the main reasons, if not the main reason, is for the insistence on keeping the grain rates.

THE CHAIRMAN: The reason for what?

A. One of the main reasons, if not the main reason, for the insistence that the grain rates should be handled under direct control by Parliament.

Q. Should remain as they are?

A. Yes.

MR. SINCLAIR: Q. I have a few questions on economic matters, and you are an economic expert. I don't know very much about it, so if I don't quite use the technical terms you will correct me?

A. We shall both be on an equal basis on that.

Q. Is this statement right, that there cannot be a monopoly unless you have power over the buyer?



MR. O'DONNELL: The Brief?

MR. SINCLAIR: It is not in any Brief; it is a Sinclairism.

THE CHAIRMAN: Pardon me, do you say, unless you have power over the buyer?

MR. SINCLAIR: Yes.

THE CHAIRMAN: That would be the shipper in this case?

MR. SINCLAIR: Well, I think there is considerable doubt about that.

Q. Would you agree that you could not have a monopoly unless you have power over the buyer? Do you think that is a sound economic principle?

A. I don't know what power over the buyer means, but if what you mean is this, that there cannot be a monopoly unless the position is such that one party cannot do anything except accept what the other fellow says: then, yes.

Q. And you would agree that the buyer of grain who is most important to the western grain producer is the European buyer?

A. I do, yes.

Q. You don't suggest that the Canadian railways control him, do you?

A. No, but here where the reference is to monopoly, it is not talking about monopoly on the price of grain; we are talking about monopoly on the price of freight services applied to grain.

THE CHAIRMAN: I presume the monopoly you have in mind is over the shippers of grain, is that right?



MR. SINCLAIR: Of course, my lord, I say that to enable us to have the monopoly powers that would do harm to the farmer, we would have to control and secure a true monopoly, and that would be a monopoly over the buyer.

COMMISSIONER ANGUS: Do you mean the buyer of the grain or the buyer of transportation services?

MR. SINCLAIR: Well, I say he is the buyer in Europe.

COMMISSIONER ANGUS: The buyer of the grain?

MR. SINCLAIR: The buyer of the grain is the buyer of the transportation services.

THE WITNESS: I don't agree with that, no.

MR. SINCLAIR: Q. You don't? Now, are you one who takes the position that the farmer pays the freight on everything he buys and on everything he sells?

A. No, I would not say everything, but by far the great majority of the products both that he buys and that he sells, and particularly in the case of wheat.

Q. Would you agree with Dr. Britnell that in the complete sellers' market the buyer in Europe would pay the total transportation cost?

A. I am not too sure about that. In any case we never have that situation; it is a hypothetical situation and it is meaningless anyway. I am not too sure even on a theoretical basis whether I would agree with that.

Q. Would you agree that where there is a complete buyers' market, that the buyer would pay the total transportation cost on grain?





A. I am afraid that I have not seen a definition of what is a complete buyers' market and a complete sellers' market.

Q. Have you made a close study of the marketability of grain, Mr. Moffat?

A. Not particularly close, no.

Q. Have you considered the incidence of the transportation costs on grain carefully?

A. Yes, reasonably so. I wouldn't set myself up as an expert on the subject, no, but I have given a good deal of attention to it.

Q. You have given attention to it?

A. Yes.

Q. I see. Can you tell me what evidence you have to show that the farmer bears the transportation cost on grain?

A. Well, this fact, that the price which he gets for it - take it under the immediate present condition where you have a wheat agreement. There is no question that the price is delivered price at Fort William, Vancouver or Churchill. In that case what the farmer gets is that less the transportation cost, and if the transportation cost is higher he gets less. There is no question at all about it.

Q. Do you think transportation cost was a factor in fixing the price under the British Wheat Agreement?

A. Not the transportation cost in Canada as such, no.

Q. Do you think that the transportation cost (never mind any segment of it) do you think the



transportation cost was a factor in fixing the rate of two dollars, Fort William, under the British Wheat Agreement?

A. Well, there would be a great variety of factors.- -

Q. But was that one of them?

A. Let me finish - of which the dominant one would be the price which the British buyers had to pay for wheat from other parts of the world. Consequently the question of transportation cost will come in, yes, as one factor, but not the question of the transportation cost of the Canadian product as such.

Q. Do you think that was the consideration under the British Wheat Agreement despite what the Cereal Board could market from other countries?

A. One of the most important factors would be that, yes. There were others, sure.

Q. So that looking at the transportation cost from the point of view of the western exports, you can compare that with the transportation cost from Australia to Liverpool?

A. No, I didn't say that.

Q. You don't think that is a consideration?

A. No.

Q. Do you think there is more than one market for wheat?

A. No - -

Q. Fixing the price?

A. What do you mean by one market? No, there is one market in the sense that the European buyers consider where else they can get wheat from, and what



price they will pay. In that sense there is only one market, but it is not clear cut like Chicago or Winnipeg Grain Exchange.

Q. Quite so. Today there is only one world market for wheat, isn't there?

A. Yes, absolutely.

Q. And the domestic price is a reflection of that world market?

A. Yes.

Q. And that is true whether the grain is to be grown in the Argentine, in Uruguay, in Australia, in the United States or in Canada, is that correct?

A. Yes, subject to special considerations when you have monetary deals or long term commitments and so on, yes, but over a period what you say is correct.

Q. And I am correct, am I not, Mr. Moffat, that the International Wheat Agreement provides for a fluctuation of as much as 60 cents in one year?

A. That is correct.

Q. And do you think that having such a fluctuation in the contract, that there would be a possibility that such a fluctuation would be ruinous to western agriculture?

A. Well, there is the term again, the definition of ruinous.

Q. It is your word.

A. It would certainly be disastrous, shall we say that. Whether it would ruin them or not - -

Q. Did the western provinces object to having a fluctuation in the International Wheat Agreement?

A. Well, they objected to it in the sense that they tried to get it as narrow as they possibly could.



Q. But did they object to a fluctuation being in there?

A. Well, no, they signed the agreement, if that is what you mean, but they certainly tried to restrict the range of the fluctuation as much as possible.

Q. I am talking about the western provinces. They didn't sign the agreement.

A. No, but the western interests. I am thinking in terms of the western farm interests.

Q. I am talking to you - -

A. As the Government?

Q. Yes.

A. No, the Government had nothing to do with it.

Q. They didn't think it was important to try to take a position in the matter?

A. They were not so presumptuous as to think they had any reason to be involved in it.

Q. On page 6 you refer to technological improvements. I have only two or three questions more, and I think Mr. Moffat has a rather pressing engagement for this afternoon.

A. I would not want to leave any impression that I am rushing away at all by that remark. I shall certainly be here this afternoon if we don't finish.

Q. We could discuss this for quite a while.

A. I think so, yes.

THE CHAIRMAN: We are about to adjourn.

MR. SINCLAIR: But if I may just clear it up, if I may just have two or three minutes. There you refer to the technological improvements from the great increase in traffic volume.

A. Yes, sir.





Q. That would apply to all traffic moving over the railways, not just to grain?

A. Oh, yes, but the point that was made there in the C.P.R. Brief was that anything which was still carried at the 1897 rate was therefore prima facie an unreasonably low rate. There are other factors, particularly technological factors, which offset the increases in operating costs, and consequently you cannot say that it is prima facie one way or the other. You have to look at both sides of the thing.

Q. Then I will ask you if you can give me any examples where rates today are lower than in 1897 outside of the removal of the mountain differential and like comparisons.

A. I have not made any attempt to find any.

Q. You have not made any attempt to find any?

A. No.

Q. On pages 7-8 you deal with the report of the Special Committee of the House in 1922 dealing with the Crow's Nest rates, and you point out there that the railways were prepared to make certain reductions.

A. Yes.

Q. That was what was said by the Honourable Mr. McLean?

A. Yes.

Q. Now, you know that railway revenues in 1922 were buoyant and that a reduction did take place in the general level of freight rates in that year.

A. Oh, yes, that there was a general reduction of which this was an important part, although the general reduction was not as large as the reductions suggested here.



Q. And I am correct, am I not, that the reduction that was proposed by the railways for these basic commodities, iron and coal, which are referred to here - -

A. Yes.

Q. Are larger than the reductions that the Board allowed or ordered?

A. Yes, and to that extent they offset the fact that the grain reductions were a little bit larger. That is one of the points that is involved in this statement.

Q. And you would agree, wouldn't you, that the Board took the position that they could not order as great a reduction on other commodities because the grain rates had been reduced to the Crow's Nest level?

A. Yes, that is what I say, that the railways were willing to bring them down to this extent. We were quite satisfied they would have enough revenue, from it, and therefore prima facie evidence that the rates were quite satisfactory to the railways at the time and probably quite profitable.

Q. It is quite all right. If you find comfort in it so do I. Now there is just one question on the Table on page 9, this restatement that you prepared. You have taken grain and grain products?

A. Yes.

Q. Now, that is not the Crow's Nest revenue per ton mile; that is all grain?

A. No, I didn't take these headings. Your people took the headings. I followed the headings that your people had established.

Q. That may be.



A. It is not restricted to Crow's Nest only.

Q. No, the actual figure we have for Crow's Nest was 0.49% per ton mile in our Brief.

A. Yes, I believe that is the figure you have in your Brief.

MR. SINCLAIR: Thank you, my lord.

---The Commission adjourned at 1:00 p.m., to meet again at 2:45 p.m.

(Page 19425 follows)





-19425-

Ottawa, Ontario,  
Tuesday, March 28, 1950.

AFTERNOON SESSION

THE CHAIRMAN: You are appearing for?

MR R. H. MILLIKEN, K.C.: I am appearing for the three wheat pools, my lord.

THE CHAIRMAN: Manitoba, Saskatchewan and Alberta?

MR MILLIKEN: Manitoba, Saskatchewan and Alberta. It is the Alberta Wheat Pool, the Saskatchewan Co-operative Producers and Manitoba Pool Elevators.

I am going to call Mr. Wesson as a witness, but before doing so, my lord, I would like to make a slight statement about the brief.

The brief is the joint brief of the three organizations. It was prepared by Mr. H. S. Scarth, K.C., of Winnipeg and his son Allen Scarth, Mr. M. M. Porter K. C. of Calgary and myself in association with the Presidents of the three organizations, Mr. Parker, Mr. Plummer and Mr. Wesson.

The Alberta Wheat Pool, as you very well know, sir, is a co-operative marketing organization which markets wheat, operates a line of elevators in Alberta and has terminals at Vancouver.

The Saskatchewan Co-operative Producers in Saskatchewan operates elevators, has terminals at Fort William, operates an export department, operates a livestock department marketing livestock, operates a flour mill and an oil refinery.

The Manitoba Pool Elevators operates elevators in Manitoba and terminals at the lakehead, and also handles livestock.

Mr. Wesson, would you mind taking the stand?



JOHN H. WESSON, Called.

MR MACPHERSON: My lord, before Mr. Wesson proceeds, I promised yesterday that I would file copies of the actual Crow's Nest agreement. I have these now, and I think everybody has copies. I would file them as Exhibit No. 261.

---EXHIBIT 261: Crow's Nest Pass Agreement,  
dated September 6,  
1897, between the  
Canadian Pacific Railway  
and the Government of Canada.

EXAMINED BY MR MILLIKEN:

Q. Mr. John H. Wesson: You have been a director of Saskatchewan Co-operative Producers since when?

A. 1924.

Q. That was when the organization was first formed?

A. That is right, sir.

Q. And you have been the Vice-President of the organization -- you were the Vice-President, rather?

A. From 1931 to 1937.

Q. And then the President since 1937 until now?

A. That is right, sir.

Q. And you are the President at the present time?

A. Yes, sir.

Q. Prior to becoming the President, Mr. Wesson, you also operated a farm, did you not?

A. Yes, sir, at Maidstone, Saskatchewan.

Q. How long did you farm at Maidstone?

A. From 1907.

Q. From 1907?

A. That is right.

Q. You were not one of the Bar Colonists; you were a little late for that; they came out in 1903, didn't they?

A. Three or four years later, yes.

Q. Have you any comment to make upon the time you came



out, in 1907?

A. Yes, Mr. Milliken, I think it would be quite timely for me to make a two-minute general remark on this Crow's Nest Pass question, because my first contact with the Crow's Nest Pass agreement was not in Canada, it was in England, in 1906. At that time the Wesson family intended to emigrate either to South Africa, Australia, New Zealand or Canada. I say it is timely, because we got a lot of literature and material from the Colonization Department of the Canadian Pacific Railway pointing out all the virtues of the Canadian climate and farming in Western Canada, the lure of free land, 160 acres, and cheap land adjoining, sunny Alberta and the southern plains for growing wheat, and the northern part of the province for raising livestock.

During that period I attended a number of lectures given by agents of the Colonization Department of the Canadian Pacific Railway Company, carried on in the countryside at that time in an endeavour to carry out the policy of the Government of the day, and I think especially Sir Clifford Sifton, to get old-country people over to this country from the old land. At one of these lectures farmers, as we were over there, we were quite concerned with price levels.

THE CHAIRMAN: Q. With what?

A. Price levels of wheat and farm products in the old country, and I was just as curious then, sir, as I am today on lots of questions. I could not understand how it would be possible for an emigrant to come to Canada and produce wheat and other products and pay all the expense of getting them back to Great Britain, and you have competition of price levels, which at that time was ruining the British farmer, and this is the answer





that I got---

MR MILLIKEN: Q. From whom, Mr. Wesson?

A. From this agent.

MR SINCLAIR: Q. How old were you then?

A. I was nineteen, sir.

He said there were two questions involved. He said, "First of all, you can produce grain and livestock much cheaper in Western Canada than you can produce these same commodities in the United Kingdom," and he said, 'Secondly, while you are in the centre of a huge country and a long way from markets, Western Canada has the cheapest freight rates in the world. They have what they call over there a Crow's Nest Pass agreement, which provides low freight rates on all the things that you buy for farm production and low freight rates when you produce grains to ship east."

Forty years ago this month we arrived in Western Canada. It did not take me very long, sir, to find out that amongst all the settlers at that time this Crow's Nest Pass was the Magna Carta of Western Canada. That was my first contact with it, sir.

MR MILLIKEN: Q. Now, Mr. Wesson, will you please read this brief?

A. TO THE ROYAL COMMISSION ON TRANSPORTATION, 1949

SUBMISSION OF MANITOBA POOL ELEVATORS,

SASKATCHEWAN CO-OPERATIVE PRODUCERS and

ALBERTA WHEAT POOL,

regarding maximum rates on grain and grain products as fixed by the Crow's Nest Pass Agreement dated September 6, 1897, between the Canadian Pacific Railway and the Government of Canada.

In accordance with your decision as announced by Mr. Justice Turgeon December 2nd last, we wish to submit a joint Brief in support of the retention of the Crow's Nest Pass Agreement, as modified by Chapter 52, S. of C. 1925.





Our organizations are producer-owned grain handling and grain marketing Co-operative Companies, operating throughout the entire grain growing areas of the three Prairie Provinces. They have a membership of 185,000 grain growers, who have a most vital interest in the question of transportation rates upon grain and grain products.

We shall first review conditions which brought about the execution of the Agreement in question, and shall outline the national interest which impelled the Government of Canada to impose a maximum rate in 1897. We shall also endeavour to show that it is still in the national interest for the Government of Canada to retain its direct control over such rates.

In 1897 Canada was seriously handicapped by reason of its sparse population, which at that time was in the neighbourhood of five million, of which fewer than three hundred thousand were to be found in the three Prairie Provinces. Immigration was at a standstill in spite of a free homesteads policy, with adjoining lands, offered at anything from \$1.00 to \$3.00 per acre. In the previous year, only 902 immigrants had filed entries for homesteads.

In 1897 the total production of all grains in Western Canada was approximately 41 million bushels, of which 23 million bushels was wheat. Vast stretches of the most fertile and open plains were completely devoid of any settlement.

On May 31, 1906, Sir Clifford Sifton speaking of settlement in this area, prior to 1900, said in the House of Commons :

"From the international boundary line to nearly 100 miles north of Edmonton, from the boundary of



Manitoba to the Rocky Mountains, the whole fertile belt was looked upon as railway reserves. Insofar as every tract of land in the whole North West which was considered to be fairly fit for settlement was concerned, it was covered with reservations of some kind in favour of the railway companies."

THE CHAIRMAN: It might be well to put in there, that Sir Clifford Sifton was Minister of the Interior.

MR MILLIKEN: Yes; a little later on, sir, we refer to that.

THE CHAIRMAN: In charge of immigration also.

MR MILLIKEN: That is right, sir. That is a little later on in the brief.

THE CHAIRMAN: Q. All right, go on, Mr. Wesson.

A. John W. Dafoe in his life of Sir Clifford Sifton commented:

"The railway companies once they earned their land grant, were in no hurry to make a selection because once the land was transferred to them, it became liable for provincial and municipal taxation."

In those areas that were settled, mainly in the Province of Manitoba, the farmers were discouraged and despondent. There was much furtive discussion as to the advantage of joining the United States. The territories out of which Saskatchewan and Alberta were subsequently carved, did not possess sufficient population to warrant their being formed into Provinces. All Canada was suffering from a depression. Speaking of this period, John W. Dafoe says:

"high freight rates were one of the contributing causes of Western Canadian stagnation."

MR MILLIKEN: Q. Just a moment, Mr. Wesson, please.

That quotation is taken from Dafoe's Life of Sir



Clifford Sifton, at page 104.

THE WITNESS: In the Province of Manitoba, for the previous decade agitation had almost boiled over into bloodshed as a result of attempts made to break the transportation monopoly of the Canadian Pacific Railway. In the year 1888, the Federal Government as a result of this agitation, repealed the Monopoly clause in that Company's Charter. This alone did not quieten the clamour of the Provincial Government of Manitoba and the people of the West.

Between the years 1888 and 1894, two Royal Commissions were appointed to investigate these complaints.

Even with the comparatively small production of wheat in 1897, a foreign market had to be found for almost the entire crop because Ontario was then producing more wheat than would meet all Canadian requirements.

Selling in foreign markets meant competing with all wheat exporting countries, all of whose grain areas were situated closer to their seaboards. It also meant that the price of wheat would be set by that competition, so that the Western farmer unlike the merchant or manufacturer could not pass on to the consumer the costs of transportation.

The natural flow of traffic from the Prairies as well as from British Columbia was south rather than east. The barren wastes north of Lake Superior would not have been bridged had it not been considered necessary to link east and west if a Nation was to emerge. Southern British Columbia with its north and south mountain ranges and the resultant north and south valleys and waterways felt the pull of geography even more than the prairies.

The C.P.R. had been conceived and built to keep the entire West from being absorbed economically if not





actually by the United States.

In his life of Sir Clifford Sifton, John W. Dafoe quotes him as having said of this undertaking:

"To place a large producing population upon the Western prairies and to inaugurate a system whereby the products of their labours should be brought to the seaboard through exclusively Canadian channels and shipped from Canadian Ports, would bring such prosperity to the Dominion of Canada as to wholly transform the financial difficulties of the country."

Eastern Canada realized the enormous financial benefits which would flow to it from a prosperous, populated West, if only its trade could be routed east rather than south, which would give it a virtual monopoly of Western Canadian trade.

The railway promoters of the United States were also alive to the situation. Already a railroad was in operation through Emerson and another line was advancing into Southern Alberta, while two lines had made their way north into Southern British Columbia. There a mining area of unknown wealth was just being tapped. Gold, silver, lead, zinc and copper were believed to be in almost unlimited supply. High grade coal, suitable for coke and smelting had been found in huge quantities.

In 1896 a smelter had been put into operation at Trail, a smelter, the earnings from which in years to come, would form a very large proportion of the total profits of the C.P.R.

The C.P.R. had been endeavouring unsuccessfully by use of lakes, rivers and stub lines of railway, to attract this vast mineral development to its main line many miles to the north. The only possible way to break the stranglehold of the north-south pull was to come into the area from



the east through the Crow's Nest Pass. This being done, it was believed a most valuable mineral area would be saved for Canada, and large quantities of freight secured for the C.P.R.

In speaking of the trade of Southern British Columbia, John W. Dafoe said:

"All the trade of this District was going south to the United States over a stub line which had been built by the Northern Pacific System. Western farmers saw in this area a market for wheat, hay, oats, eggs and dairy products, all the output of the farms. Coal owners in Southern Alberta foresaw a demand for coke for developing the mining properties of British Columbia. The merchants of Winnipeg looked forward to replacing St. Paul and Minneapolis as sources of supply."

MR MILLIKEN: That quotation is taken from the Life of Sifton, page 146.

THE WITNESS: "In 1896 the Laurier Government had been returned to power. Clifford Sifton, a young lawyer from Brandon had accepted the portfolio of Minister of the Interior. He had already announced an aggressive immigration policy by means of which he hoped to increase the population of Canada to twelve million within the next ten years. His plan called for this increase to flow mainly from settlement of the West.

At that time, as a result of a continent wide depression the C.P.R. found the financing of any further development no easy task. The cash subsidies granted to it by the Government of Canada had all been invested in constructing and equipping the main line. The extensive land grants had thus far been of little or no assistance because of the lack of demand for land.

I would like to pause here, my lord, to make a



comment. While that statement was true at the time, things started to change after the immigration policy of the Government and Sir Clifford Sifton became successful. In 1911 the Wesson family started to purchase land. In 1911 we purchased half a section, one quarter of which cost us \$20 an acre, the other quarter \$24 an acre. In 1919 another quarter section---

MR MILLIKEN: Q. From whom did you buy that half-section?

A. The C.P.R. I think I said so, Mr. Milliken. Another quarter section at \$19 an acre, all raw land covered with poplar bluffs and willow brush.

Q. Did you get it from the C.P.R.?

A. All from the C.P.R.

MR O'DONNELL: Q. Including the brush?

A. Including the brush. That land was bought under contract after a very generous deposit as far as we were concerned, but it carried with it six per cent interest, interest compounded in the event that the contractor did not meet his payments, which during the period, my lord, was quite often. I am raising this question now to show you the change which took place. This land cost the Wesson family over \$10,000 principal less interest compounded through the years. Now we find this land is situated in the centre of a very successful oilfield, and that the Canadian Pacific Railway still own all the mineral and the oil rights.

THE CHAIRMAN: Q. Does the land still belong to the Wesson family?

A. Still belongs to the Wesson family, and all paid for, sir.





MR. SINCLAIR: Where is this land?

A. North of Maidstone, East of Lloydminster, right in the oilfields. I am pointing this out to show that while this statement I read in the Brief was true, that on the basis of the information I have just given to you extemporaneously, multiplied many many thousands of times, that the Canadian Pacific Railway Company looked like they owned nothing in 1900 or 1897. Yet it turned out to be a veritable bonanza based on our own experience, and the Company must have collected - well, I wouldn't like to state the enormous amount of money that must have been collected by the C.P.R. in sales of lands which cost them nothing to acquire in the first place. They still have revenue, continuous revenue for years to come in all those areas where they still own mineral and oil rights. I will now continue to read.

Building the main line of the C.P.R. through the Kicking Horse Pass had not been sufficient to keep American Railways from invading Canadian Territory. A railway from Lethbridge to Nelson would not only enable the C.P.R. to invade this territory and control its freight tonnage, but would assure it of a virtual monopoly of rail transportation in all of that area of Alberta lying south of Calgary.

The Government of British Columbia had already granted two Charters to Companies to build railroads through the Southern part of the Province: the British Columbia Southern Railway from Nelson to New Westminster; and the Columbia and Western Railway a much shorter line through part of the most valuable mineral area





lying between Nelson and Penticton. These grants carried with them land subsidies of 20,000 acres per mile including mineral rights, exemption from taxation for a period of years, and royalties on all gold and silver found on or under any of the land grants.

The Columbia and Western had constructed 33 miles of railway connecting Robson, Rossland and Trail. It also owned a smelter at Trail. The British Columbia Southern Railway, apart from having constructed a highway, had not proceeded with its undertaking.

MR. MILLIKEN: Just a minute. There were so many B.C. Statutes in which these charters and their grants are quoted, that I didn't put them in here. I have practically a page of the references to Statutes of B.C. If you wish them I can give them to the Secretary, but we deliberately left them out because there are so many. They start in 1888 and almost every second year they passed another Statute amending or dealing with the situation up to 1898. All right, Mr. Wesson.

A. The Government of Canada declared both undertakings to be works for the general benefit of Canada, and authorized the B.C. Southern to construct a railway from Nelson through the Crow's Nest Pass to Lethbridge. It then authorized both companies to lease their undertakings to the Canadian Pacific Railway.

The C.P.R. acquired the charter of the British Columbia Southern with all its subsidy rights for a purely nominal sum, and likewise acquired for the sum of \$800,000 the Columbia and Southern Railway - -

MR. MILLIKEN: That should be Western instead of



Southern. That is a mistake. The information which was secured as to the fact that the first was a purely nominal sum and the next for \$800,000, we obtained from the Annual Report of the President of the C.P.R. given to the shareholders in the year 1897. The expression "nominal sum" was his own expression.

MR. O'DONNELL: Is the \$800,000 a nominal sum?

MR. MILLIKEN: \$800,000 is the other railroad. I don't know what the sum was in this case. His report said it was a nominal sum and the second railroad was for \$800,000 with the smelters. That information is contained in the Annual Report of the President to the Company. Yes, Mr. Wesson.

A. The C.P.R. acquired the charter of the British Columbia Southern with all its subsidy rights for a purely nominal sum, and likewise acquired for the sum of \$800,000 the Columbia and Western Railway, including 33 miles of railway and the smelter at Trail, which subsequently became such a source of wealth to the company. The President of the C.P.R. at the annual meeting of the Company in 1897 in describing the properties secured with the Columbia and Western Railway declared:-

"The coal deposits made accessible by the Crow's Nest Railway are of great extent and extraordinary character. The aggregate thickness of the beds in the immediate vicinity of the railway exceeds 125 feet, and the coals are of excellent quality and make superior coke, the latter being of especial consequence as affecting the smelting of ores; and in this connection it is worthy



of remark that the mining districts of Southern British Columbia are exceptionally fortunate in possessing an abundance of coal, a boundless supply of timber, numerous water-powers, a health climate, and, close at hand, agricultural districts affording cheap and plentiful food."

MR. MILLIKEN: That my lord, is paragraph 15 of the Report of the President in 1897. Yes, Mr. Wesson? I am sorry I stopped you.

A. On September 6, 1897, the Company entered into the Crow's Nest Agreement with the Government of Canada to construct a railroad from Lethbridge to Nelson and thereby secured a subsidy amounting to \$3,404,720. The land grants secured from the Province of British Columbia amounted to approximately \$3,620,000 acres including mineral rights as well as an area of 6 square miles of coal land.

MR. MILLIKEN: That later statement, Mr. Chairman, is taken from paragraph 14 of the President's Report in 1897.

COMMISSIONER ANGUS: Were these lands in addition to those acquired by the two railways mentioned before?

MR. MILLIKEN: No, they were the same lands.

COMMISSIONER ANGUS: Same lands.

MR. MILLIKEN: They are the same lands, sir.





By building this railway the Company excluded the threatened United States rail invasion, and obtained a monopoly of all rail transport in that portion of the Province of Alberta lying south of Calgary, which it still enjoys. It also had the assurance of the Government that an aggressive immigration policy of settlement of the prairies would be inaugurated without delay. This was of twofold advantage to the Company; on the one hand it would benefit from the increased freight both to and from the west; on the other hand from the improved demand for land granted to the Company which would flow from increased settlement.

From the Government's point of view, it was of vital importance to appease the unrest among those already residing on the prairies.

The Government, therefore, under the Crow's Nest Pass Agreement, undertook to pay the construction subsidy in question, upon condition that the C.P.R. make a reduction of .3¢ per 100 pounds in the then existing freight rates on the shipment of grain and flour from all points West of Fort William, together with a reduction of from 10% to 33 1/3% on a specified list of commodities of vital importance to agriculture, to be shipped from the East, the most important of which were farm implements. The Company further agreed to operate at not more than those rates in perpetuity.

While the rates set by the Agreement only applied to the C.P.R., competition compelled other lines of railway when built in the West to meet the rates set by that Company under the Agreement.

It should be noted that the rates in existence in 1897 when the Agreement in question was entered into,



were rates which had been set by the railway, without governmental or other interference.

The effect of the Agreement was that these rates constituted a maximum rate for all time. Indeed, with the possible exception of the first four years after the Agreement was made, the rates charged by the Company were always less than this maximum until the year 1918. The Agreement, because of war conditions, was suspended by government action from 1918 until 1922, during which period the rates were raised above the maximum. In 1922 the rates on grain and flour were again reduced to the maximum set by the Agreement. It was not until 1924 that the rates on the other commodities moving from the East as specified by the Agreement were reduced to the maximum set by its terms.

Upon reinstatement of the Crow's Nest Pass rates in their entirety, July 7th, 1924, the C.P.R. for the first time took the position that the Agreement only applied to shipping points which were in existence in 1897. It accordingly ignored the maximum set by the Agreement insofar as all other points were concerned. The discrimination and confusion thus created brought about appeals to the Board of Railway Commissioners, and the Government alike. The Board held that the provisions of the Agreement had been overridden by the Railway Act and it, therefore, restored the rates in existence prior to July 7th, 1924, which on west bound freight were at a level higher than the maximum set by the Agreement.



MR. MILLIKEN: I am stopping there a moment, Mr. Wesson. You notice we have only made reference to the westbound freight. The question that was of course before the Board at that time was dealing only with westbound freight. It was not dealing with the grain and flour. Yes, Mr. Wesson?

A. The Board's decision was reversed by the Supreme Court of Canada, which held that the Crow's Nest Agreement was binding upon the Railroad and the Railway Commissioners, but only applied to shipping points in existence in 1897.

The Parliament of Canada in 1925 intervened by relieving the Railway Company of its obligations under the Agreement with regard to all commodities shipped from Eastern Canada to the West. Thereby it removed the ceiling set by the Agreement on all such commodities. At the same time, Parliament not only refused to relieve the Railway Company of its obligations with regard to grain and flour rates, but enacted that they should apply to all shipping points, irrespective of whether or not they were in existence in 1897.

Parliament in refusing to relieve the Company of its obligation with regard to grain and grain products was influenced by the findings of a Parliamentary Committee which had been set up in 1922 to investigate the question of the Crow's Nest Pass rates. The findings of that Committee were summarized by an Order-in-Council issued on the 5th day of June, 1925, reading in part as follows:-

"The Committee are further of the opinion that as the production and export of grain and flour forms one of the chief





assets of the Dominion and in order to encourage the further development of the great grain growing Provinces of the West on which development the future of Canada in large measure depends, it is desirable that the maximum cost of the transportation of these products should be determined and known, and, therefore, are of opinion that the maximum established for rates on grain and flour as at present in force under the Crow's Nest Pass Agreement should not be exceeded."

We have already noted the considerations granted to the C.P.R. in exchange for these maximum rates. Those considerations also carried with them the promise of a large increase in earnings from the impetus which would thus be given to mining (See the President's Report to the Annual Meeting, 1897), to say nothing of the large increase in traffic which would come to the Company if the Government should succeed in settling the prairies with immigrants.

The Government, on the other hand, believing high freight rates to be one of the contributing causes of Western Stagnation, deemed it of national importance to have Western transportation rates affecting primary producers controlled by Parliament.

The Government fully realized that Eastern rates were controlled by the competition of the waters of the Great Lakes and Eastern Rivers. The water competition of the East, however, had only been made effective by the expenditure of hundreds of millions of dollars by the Government of Canada in the construction of canals, locks





and harbours, removing the physical obstacles to water borne transportation. Millions of public money is still being spent in the maintenance of canals, locks and harbours. The Pacific Coast rates on the other hand are controlled by competition of the Panama Canal. Thus it is that of all Canada, the Prairie Provinces alone have no competitive relief.

Speaking of the Crow's Nest Pass rates, the Right Honourable MacKenzie King is reported in the Winnipeg Free Press of November 3rd, 1924, as saying:-

"The East is protected by waterways;  
The Pacific by the Panama Canal and the  
West by Parliament."

Nor is the situation altered today. The Western producers are still at the mercy of transportation companies, save for the protection of the Crow's Nest Pass Agreement.

The Company contends the Western farmer should pay higher rates because when the maximum was set in 1897, wheat sold for 70¢ per bushel at Fort William, while today it is selling for \$2.00 at Fort William.

MR. MILLIKEN: Mr. Wesson, what do you mean by the "Company"?

A. The C.P.R.

Q. Pardon me for interrupting you.

A. This would have been a very useful argument for the farmers in 1932 when they were receiving 38½¢ per bushel for wheat at Fort William out of which 38½¢ they had to pay freight.

I want to cease reading here to offer a little further information, because when we were going through this



Brief, I think that  $38\frac{1}{2}\phi$  for many years has been used quite loosely, and I checked up and I found the lowest price quoted, December 16 - -

Q. What year?

A. 1932, the close of the market that day, that was the December future,  $39-3/8\phi$ , and the low for the day was  $38\phi$  in trading. The most significant thing that I want to bring before your Royal Commission - -

THE CHAIRMAN: Did you say  $38\phi$  even?

A.  $38\phi$ .

MR. MILLIKEN: Yes, even.

THE WITNESS: A low of 38 and closed at  $39-3/8$  for the day. I was quite intrigued with what I found going back into our record and getting the price cards issued by the Market Quotation Service at the time. Market Quotation Service has always been the organization that determined the street price to be paid on all classes of grain at the close of the market. It used to go out by mail and wire and now goes by radio twice a day.

MR. MILLIKEN: Q. To all elevator companies?

A. To all elevator companies, United Grain Growers and everyone else, as long as grain is being sold on the open market. I would just like to quote what this  $39-3/8\phi$  close meant to the farmer in the country. I shall take the  $24\phi$  freight rate point because that is where my farm is located. No. 1 Northern,  $20\phi$ ; No. 2 Northern  $17\phi$ ; No. 3 Northern  $15\phi$ ; No. 4 Northern  $13\frac{1}{2}\phi$ ; No. 5 Northern  $11\frac{1}{2}\phi$ ; No. 6 Northern  $7\frac{1}{2}\phi$ ; feed wheat  $3\frac{1}{2}\phi$ .

Q. That is after paying - -



A. That is after paying the freight and elevator charges, that was the price net to the farmer at that date. Then we proceed to give some further information. It will only take a moment to do it.

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(Page 19448 follows)





We will take oats from the top grade of  $7\frac{1}{2}\phi$  to the lowest grade, 3 feed,  $\frac{1}{2}\phi$  a bushel. Barley, the high grade was  $11\phi$  and the lowest grade  $5\frac{1}{2}\phi$ .

Q. You have almost got a buyer's market?

A. Almost. But that is not the most important question, sir, and I presume I will be examined on this later. Attached to this is a supplementary sheet dealing with the price levels of what we call off-grade grains, tops, damp, rejected, and so on, and I have marked one or two especially. Damp wheat,  $6\phi$  under straight grade. Tough oats for the top grade  $2\phi$ . All others  $1\phi$  under straight grades.

I merely want to illustrate by saying this, that when the quotation for 3 oats, 3 feed oats, was  $\frac{1}{2}\phi$  and tough oats was  $1\phi$  under straight grades, on this day this grade was worth to the farmer of the country half a cent less than nothing, or, if he insisted on delivering to the elevator company he would have had to pay the elevator half a cent a bushel to take it in. That is the position when you get the low prices as reflected back to the farmer in the country, and the amount of money he actually gets when he sells his grain based on Fort William prices, less freight, less elevator handling charges.

Q. You stopped in the middle of that paragraph, Mr. Wesson.

A. As I just said, sir, out of which  $38\frac{1}{2}\phi$  they had to pay freight. The present wheat price is entirely due to the aftermath of a great war. A consideration of the price of wheat for any period of time other than war, shows that the average price paid to the Western farmer has been in the neighbourhood of \$1.00 per bushel, out of which the farmer again paid the freight to Fort William. The freight rate on grain has never borne any relationship to its market price.



I want to repeat that: The freight rate on grain has never borne any relationship to its market price.

THE CHAIRMAN: Q. Do you mean by that that it has never varied with the market price?

A. Yes, sir; that is, the market price has never fitted itself to any variation or change or otherwise of freight paid by the farmer.

The Company further says that should it ever come about that the maximum set by the Agreement should prove inadequate to return the Company a profit, then all other shippers must make up the deficiency. Any application based on that contention should not be considered until all other sources of revenue have been exhausted.

To a Transportation Company which was under obligation to operate a Railway from the East to the Pacific Coast, the creation of a Prairie traffic was a matter of vital importance if financial success was to be achieved. Hence the interest of the Company in the settlement of the Prairies, which was also so important a factor influencing the Government to enter into the Agreement.

The objectives of both the Company and the Government have been attained because in 1948 ton mile freight other than grain exceeded grain traffic.

For the second time since 1897 the C.P.R. is attacking the Crow's Nest Agreement.

The arguments presently advanced by the C.P.R. are, for all practical purposes, the same as those offered by them before the Parliamentary Committee on Transportation in 1922. Indeed, the circumstances as they exist today, are similar in almost all respects to those which existed at that time. Then, as now, the Railways were facing difficulties brought about by post war conditions, namely,



recurring demands for higher wages, higher operating costs and threatened fall in revenue.

The Railways argued in 1922, and argue today, that under the Crow's Nest Pass Agreement grain and grain products are carried at less than cost. This argument is based on a cost of handling analysis, which omits consideration of the benefits which have accrued, and are accruing, to the Railway as a result of the 1897 Agreement. These benefits, as already noted, extend far beyond the subsidies paid for the construction of the Crow's Nest Pass Railway. Out of these benefits has grown the Consolidated Mining & Smelting Co. of Canada Ltd., which in 1948 paid a dividend to the Canadian Pacific Railway approximately equal to its net operating railway revenue less tax, as shown by the Company's 1948 annual report.

Of greater value yet, are the unseen benefits flowing from the monopoly of the Southern Alberta and Southern British Columbia carrying trade---

MR MILLIKEN: Just a moment. "Western Canadian" is being corrected; it is an error.

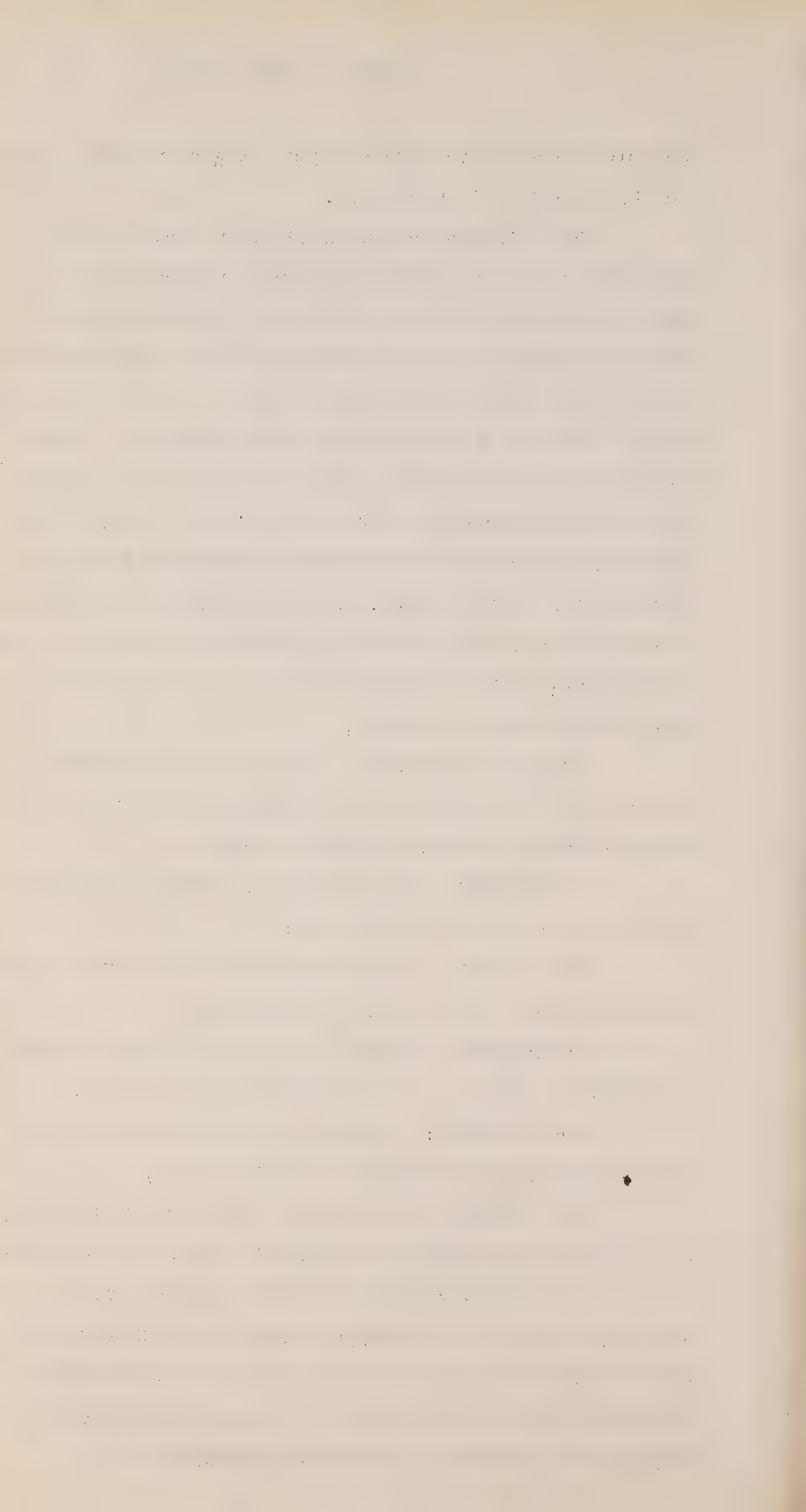
THE CHAIRMAN: "The monopoly of the Western Canadian carrying trade" -- you want to change that?

MR MILLIKEN: Change that from "Western Canadian" to "Southern Alberta and Southern British Columbia."

THE CHAIRMAN: "Monopoly of the Southern Alberta and Southern British Columbia carrying trade."

THE WITNESS: ---which was created for this Company by the Canadian Government through the Crow's Nest Agreement.

The Canadian Pacific Railway suggests that it should be relieved of its undertaking under the Agreement, and be allowed to retain all the benefits; that freight rates on grain and grain products should be placed under the control of the Board of Transport Commissioners.





It is submitted that these benefits are beyond the purview of the Board of Transport Commissioners because under the provisions of the Railway Act they could not be taken into consideration in determining rates. Western grain rates which are definitely tied to those benefits, must, therefore, continue to be dealt with by the Parliament of Canada on the national policy level.

Today, in the face of increasing world competition, Western farmers are being forced to cut down their cost of production. It is incumbent upon the Railways, on their part, to ensure that none of their costs are out of line with those in the general economy. Wages and salaries make up the largest factor in the railway cost structure amounting in 1948, to 57% of the total operating costs.

I think, Mr. Milliken, that figure should be 58.4.

MR MILLIKEN: I believe that is correct.

THE WITNESS: It should be 58.4.

MR MILLIKEN: It is pretty fair at 57.

THE WITNESS: The Railways are being met with recurring demands for wage and salary increases and shorter hours, which to date they have not seen fit to resist.

THE CHAIRMAN: Q. Pardon me. You say the railways have not seen fit to resist ?

A. That is what it says, sir.

Q. All right.

A. The result has been a divergence between the railway wage level and the general income level on the Prairies which has become increasingly burdensome to the Western farmer through increases in freight rates on consumer goods.

It is submitted that the Railways' wage level should be fairly related to that of those who pay the freight. There is a duty upon the Railways to see that





such a relation is maintained. The Western farmer is not satisfied that this duty has been fulfilled. Past wage increases have been made the basis of applications to the Board of Transport Commissioners for increased freight rates. Now the C.P.R. contends that a point has been reached where it must be released from its obligation under the Crow's Nest Agreement as a last remaining avenue of relief. It is submitted that before such a course of action is even contemplated, the Railways should re-examine their wage and salary structure.

The great proportion of the consumer goods used in the West are produced in the East, and the Transportation charges for these goods are passed on to the Consumers, and the farmer, the heaviest consumer, is already bearing the full brunt of these charges and all increases in them. Because he is farther in terms of rail miles from the world markets than are his competitors, more of the selling price of his product is absorbed in freight.

MR MILLIKEN: Just a moment, Mr. Wesson.

It appeared there was some misunderstanding as to what was meant by the words we had in there, and we decided to delete them and replace them with these. That is, the words that are being deleted are "he must himself absorb a very substantial part of the cost of transporting his grain to market", and in place of them is put "more of the selling price of his product is absorbed in freight."

MR SINCLAIR: I am sorry, I do not get that.

MR MILLIKEN: "More of the selling price of his product is absorbed in freight."

THE CHAIRMAN: Pardon me. What about the words "The Western wheat farmer buys" and so on? Do they remain?

MR MILLIKEN: They remain, sir.

THE CHAIRMAN: What are the new words you put in?



MR MILLIKEN: "More of the selling price of his product is absorbed in freight." We intended to mean the same thing as the words we are deleting; but they were evidently open to two interpretations.

MR SINCLAIR: The change is so shocking that I---

THE WITNESS: Shall I read that part again, or carry on?

MR MILLIKEN: Have you got that change now, Mr. Sinclair?

MR SINCLAIR: I heard the words, but I don't understand them.

THE WITNESS: To be sure, I will read them again.

Because he is farther in terms of rail miles from the world markets than are his competitors, more of the selling price of his product is absorbed in freight. The Western wheat farmer buys on the basis of cost plus freight while he sells his grain on the basis of world prices less freight.

Canada is vitally interested in her foreign markets. The cost of marketing our products has a direct bearing on Canada's ability to meet her competitors. This fact has long been recognized by the establishment of export freight rates at lower levels than domestic rates. It is submitted as a matter of principle, that those members of a Community trading in the export market cannot be dealt with on the same basis as those trading in the domestic market. It is in the interests of all, that those trading in the export market be given consideration consistent with their importance to the general economy of Canada, and the risks they run.

Nor must it be overlooked that every percentage increase in rates imposes a proportionately greater increase on Western Canada because its basic rate is higher than that



of the East.

Indeed, Sir Edward Beatty, President of the C.P.R., recognized the national interest in Western freight rates, when giving evidence before the Railway & Transport Commission, 1931-32, he said:

"It is true, we have the lowest freight rates in the world, but we also have the longest distance to the primary markets. These are considerations which have to do with the building up of the Country. I do not think we can entirely overlook them and treat freight rates as purely a mathematical problem, having no results but to make railways prosperous or otherwise."

It is submitted while the Agreement was technically one between the Government of Canada and the C.P.R., it was in fact an Agreement upon which a third party, namely, the people who settled the Prairies, relied as an inducement to build the Western economy. Canada and the Railroad must keep faith with those people. Those rates must be retained under the control of Parliament.

Respectfully submitted.

MANITOBA POOL ELEVATORS,  
SASKATCHEWAN CO-OPERATIVE PRODUCERS,  
ALBERTA WHEAT POOL.

MR MILLIKEN: Thank you, Mr. Wesson.

EXAMINED BY MR COVERT:

Q. Mr. Wesson, I just wanted to be clear on one thing on page 11 of your brief, in the third paragraph, in the last sentence, where you say:

"Western grain rates which are definitely tied to those benefits, must, therefore, continue to be dealt with by the Parliament of Canada on the national policy level."





And the very last sentence of your brief also was:

"Those rates must be retained under the control of Parliament."

Now, what I wanted to find out first was, do you in effect say that, regardless of what the agreement was, if the rates are to be raised they are to be raised by Parliament? In other words, if anybody tampers with them at all it is to be Parliament?

A. We prefer that Parliament leave them alone.

Q. Yes?

A. Not if they ask for a raise.

Q. Your preference is that, but do I gather from that that you recognize that there may be a possibility that the rate may be changed?

A. Well, we do not recognize that at all. We say that they should be left under control of Parliament, and today we say they should not be changed simply because an agreement was entered into. Might I expend a little bit here?

Q. Certainly.

A. Because before I commenced reading the brief and gave a little history, I told you the story of my first connection with the Crow's Nest Pass arrangement. That was before immigration to Canada in 1907. I next became concerned with this question in 1918, at which time I was an officer in the old Grain Growers' Association, and I don't mind saying to you now, after all these years---

THE CHAIRMAN: Q. Mr. Wesson, would you please turn this way?

A. Pardon me, sir. After all these years, we were a little bit concerned when the Crow's Nest Pass rates were suspended in 1918. We still looked upon the question of the Crow's Nest Pass agreement as being the Magna Carta of Western Canada. It was not until 1921 when we did very much



about it, when prices crashed, which will be probably dealt with later, sir, that we saw we were not only losing reasonably good prices for wheat but also the protection under the Crow's Nest Pass rates, and I think it was the agitation caused in the three prairie provinces in that time, assisted by a large bloc of men going to Ottawa, that caused the other arrangement to be made, when the whole question came, I think in 1924 or 1925, under the statute of Parliament.

This is what I want to say to you, sir, that when this decision was made we farmers of the west believed that we had been sold down the river. We did not believe it was fair to take all those goods coming from the east, which were all supplies for production, we did not believe it was fair to put them back on higher freight rates, when an agreement was in existence before for which the Canadian Pacific Railway had got a lot of concessions made to them to carry out, so all we had left then was the Crow's Nest Pass rates on wheat and flour, and the application of these rates applied to all points in the west rather than just those in existence in 1897. I want to repeat, sir, that we believed at that time that we were sold down the river when we lost the protection we thought we had on our freights on incoming goods.

MR COVERT: Q. Now, as I say the brief seems to emphasize two things -- one, the agreement itself. If you adopt the attitude that the agreement should never be changed, it is an Act of Parliament that should never be changed, that is one thing, and if you say that if the rates are to be changed they are only to be changed by Parliament, that they are to deal with the question of how much or how little they are changed---

A. Well, I would answer that question, sir, by saying



this: I am a great believer in the sanctity of contract. I was raised that way in the British Isles before coming to this country. If, however, there is to be change, our economic conditions pointed out the necessity for a change, either for lowering the rates or raising them, I think the farmers of Western Canada would be much better satisfied to make their application and put the case before a Parliamentary committee of the House, with the understanding of the economic problems of the west, rather than depend on putting their case before the Board of Transport Commissioners, who would have nothing in mind except shall we say an equity of freight rates apart altogether from the principle of the agreement which was signed many years before.

Q. Well, could I say this, Mr. Wesson, that your real fear, then, of placing them with any other body than Parliament is that consideration of the economic aspects will not be taken into consideration?

A. If we face that situation, I want to repeat again, sir, that I am still a great believer in the sanctity of contract.

Q. You cannot answer?

A. No, sir, because I do not know what is going to happen in the future.

MR COVERT: Mr. Chairman, I did not know whether I should take up this question of wages. It seems to me that---

THE CHAIRMAN: I think so.

MR COVERT: You think I should take it up? Very well.

Q. Now, Mr. Wesson, on the same page 11 you say:

"The Railways are being met with recurring demands for wage and salary increases and shorter hours, which to date they have not seen fit to resist."





Now, we have had officials of the railways here before us who have told us that they have resisted wage increases.

A. Might I say, sir, that that statement might be a little too strong. Might I say that when this brief was filed, in the middle of January, we had not at that time seen Mr. Crump's evidence before this Royal Commission, sometime just before Christmas. I understand then that he did give some information about certain Government intervention, if that be a good phrase to use, sir?

THE CHAIRMAN: Yes, it is a good phrase.

THE WITNESS: That being the case, the statement is probably a little bit too strong, but I would like to say this to you, sir, that a year ago last July, I think it was July 15th, it was the deadline for a strike -- prior to that time there had been a conciliation board recommendation for an increase of seven cents an hour, which was rejected by the employees of the companies, then on the 14th information came out that the strike was called off and an agreement had been entered into to pay an increase to all employees of seventeen cents an hour. This was the reaction of the man on the street and of the western farmer: It doesn't seem to make any difference just what the labour organizations want for their members, just as long as the railway companies make the concession and turn around and ask for an increase in freight rates to pay it with. We as consumers and farmers are left holding the bag, and we are paying the shot. Now, there is the view of the man on the street, my lord, and of the farmer generally.

MR COVERT: Q. Mr. Wesson, what I want to get down to is this: Do you say that there should be some different machinery for wage negotiations than exists today? Is that what you are saying?





A. No, I do not, sir.

Q. Then when you say that the railways' wage level should be fairly related to that of those who pay the freight, are you suggesting that that is a recommendation that this Commission should make?

A. Could I answer it this way, sir, by saying that we believe in collective bargaining, we believe in the rights of labour as well as agriculture for collective bargaining, but the criticism has been already placed before your Commission, my lord, by the Canadian Federation of Agriculture in a brief submitted in September 1949, at which time they submitted to you a schedule taken, I think, from the Bureau of Statistics, pointing out through the years from 1939 the income of employees of steam railways, iron products, non-metallic, non-ferrous, chemicals, wood and paper, and lastly the farm family income. In 1939 the records teach me that the railway employees were now up to the 1929 income but the farm family income was \$586, steam railway income per individual \$1,549. Then we get up to the last year, 1948, \$2,611, farm \$2,100, with all the others lower than steam railways. And our people take the view that if there is going to be a balanced economy the railway employees should not continue to be so arrogant as to want more than other classes of people in this country, not only farmers but other classes of people.

Q. Mr. Wesson, what I want to find out is if you say the situation exists, are you making a recommendation as to what this Commission should do about it?

A. I think it could be interpreted as saying that we think before the Royal Commission makes its recommendation as to what should be done with the Crow's Nest Pass rates, and I would say freight rates generally, they should say to the railway companies the thing that we recommend, that



the companies should look at the whole salary and wage structure to find out if it is out of line, and the figures I have just quoted, sir, I think prove that they are.

Q. You say if it is out of line; I think you say it is out of line with the level that is paid to those who pay the freight. What I want to know is what recommendation you suggest should be made?

A. Well, I think the only answer I can give to that question, sir, is that the next time, in the collective bargaining that goes on every time a contract expires, at the end of a contract, when you are negotiating for a new one, it seems to me that the leaders of the labour groups in the railway company should not want to ask for a higher income than other industries doing the same kind of labour in this country. We think they are unfair, and they should be told that in these negotiations.

Q. Well, if they are told it -- I mean, are you making any recommendation to this Commission, Mr. Wesson?

A. Just what we say in that paragraph, that is all.

Q. Well, I am suggesting it is not a recommendation.

A. Well, shall we leave it, sir, on the basis of a comment, an expression of opinion, and the Commission can do as they please with it, without a definite recommendation.

I would again like to say that we believe that that statement, in view of information, sir, is a little too strong. We were not aware of---

THE CHAIRMAN: Q. Since you have the information which was given to us in evidence, as you say, after that brief was prepared, you know that that evidence told us how close we came to a general strike, railway strike, in Canada?

A. Yes.



Q. And the last-minute settlement stopped the strike, which was to begin in a very short time, a matter of days. What would you suggest ought to be done in a case of that kind?

A. I would not like to answer that question, sir.

Q. You must face it, you see.

A. All right.

Q. I mean for the future we will have to face it.

A. I would say this, sir, that if it comes to a question where labour wants too much, more than the economy could stand, I think I would let them strike for a while and see what would happen.

Q. Even though that meant tying up the railways?

A. It may for a short time, yes, sir.

COMMISSIONER INNIS: Q. You would not link up the discussion on increases in railway rates with wage negotiations?

A. Well, I think, Professor Innis, that that is what has been happening. It seems to the layman that every time there has been an increase in wages, starting in 1946 -- I am speaking from memory now; I think I have notes in the brief somewhere -- since 1939 there has been a 43¢ an hour increase.

Q. Yes, but it has been a lock-step arrangement; that is to say, wages go up and then rates go up, and then wages go up and rates go up, consequently you get a good deal of indirect motion or indirect expenditure of energy. Would there be any point in linking them directly, that is to say, when wages are to go up, then rates go up automatically?

A. I would say to the extent of dealing with the percentage of 58.4 per cent of all railway costs represented by wages, which means that the balance is represented by increased cost in all materials bought and cost of operation,







to the extent of the percentages quoted in the brief, then I would say to that percentage must be blamed the increase in freight rates to the increase in wages paid.

MR COVERT: Q. Mr. Wesson, have you examined at all the percentage of wages to total operating costs of railways throughout the world?

A. No, sir. The comparison made by the Federation of Agriculture and the Rural Statistics are well set out. I quoted some of them, and it is already filed before the Commission.

Q. Would you think that if the percentage was about the same in Canada as it was in the United States or in England or elsewhere, that would indicate that they were too high?

A. I would not admit, sir, that the economies of the United States and Canada can be compared on any basis.

Q. I do not think I asked that. I just asked, if the percentage of wages in the total operating costs of Canadian railways, if the percentage was somewhat the same -- I do not say the wages, but the percentage of wages to cost is somewhat the same -- if it happened to be somewhat the same all over the world, would not that indicate that there was a similar situation all over the world?

A. Probably could be, sir, yes.

Q. Now, just one other point I want to take up with you, Mr. Wesson, and that was the change which you made on page 12. I just wanted to see if I could clarify that. You say now, as I understand it:

"Because he is farther in terms of rail miles from the world markets than are his competitors, more of the selling price of his product is absorbed in freight."  
Correct?

A. Yes, that is right.



Q. Now, when you refer to his competitor, the western farmer's competitor, there, to whom do you particularly refer?

A. The Argentine farmer, the Australian farmer, and to a lesser degree the farmers in the United States, whose wheat is in a large measure exported and not used domestically in the United States.

Q. I think you mean the reverse.

MR MILLIKEN: The other way round, Mr. Wesson.

MR COVERT: Q. I think you mean the other way round. You mean largely domestically used -- is that it -- in the States?

A. What I am saying is -- see if I can say it again; I am sorry. In a lesser degree in the United States the farmers in the United States are further away from the seaboard than either Argentine or Australia -- in export wheat, I say, a lesser degree -- that we in Canada are much further than even the United States, and a lot further than the other two countries -- dealing now with the cost of getting wheat to seaboard for export.

Q. Now, have you compared the costs of the Argentine farmer getting his wheat to seaboard for export? Do you know what he pays?

A. No, sir, I do not, not at this time.

Q. Well, have you compared them recently at all?

A. I do not think it could be compared, sir, because of recent years the farmer has been paid a fixed price.

THE CHAIRMAN: Q. Been paid what?

A. A fixed price. The Government---

MR COVERT: Q. Well---

A. Do you mind if I finish? -- because it is very important.

Q. Yes?



A. During the years when they did attempt, three years ago, to sell wheat at \$5.00 a bushel, in that year the fixed price, with its pesos changed into Canadian dollars, he was getting \$1.35, and never received any more money from the farmer, so I say to answer your question, sir, would be impossible without going back into records to find out what happened ten years ago. I could not answer the question today.

Q. Mr. Wesson, have you checked at all, not just recently but in past years, as to what it costs the Argentine farmer to get his wheat to seaboard?

A. No, I have not, sir.

Q. Now, have you done it with the Australian farmer?

A. No, sir, I have not, not since the war years, sir.

Q. Nor the American farmer?

(Page 19466 follows)



A. No, I have not, sir. I can answer the question by saying this, but it involves another question. I have a very close and intimate knowledge of what happened with price equivalents under the International Wheat Agreement. It might throw some light on the question.

Q. I beg your pardon, on the price what?

A. On the price equivalents.

Q. Yes, well, I just wanted, if I could, to examine the effect of this sentence:-

"He is farther in terms of rail miles from the world markets than are his competitors."

Well, does the distance of world markets matter if his freight rate is less?

A. Yes, it does, because this statement intends to deal with the price of the cereal at seaboard. I have been to Australia and visited most of the states, in 1938.

Q. Can I take it this way, Mr. Wesson, that in effect you say that it costs the Western farmer more to deliver his wheat to seaboard than it does the Argentine, Australian or American farmer?

A. Just what do we say there though:- "More of the selling price is absorbed in freight", yes, sir.

Q. Does that mean that it costs the Canadian farmer more to get his wheat from his farm to the world market than it does the American farmer, the Argentine farmer or the Australian farmer?

A. It costs him more, sir, as his share in getting it first to the primary market. Could I make a statement, my lord? It will take longer than four o'clock, I think.





• THE CHAIRMAN: What is it about?

A. It is in answer to this question.

Q. Well, answer it.

A. The Canadian market to the farmer is the price of grain in store, Fort William. That is his market. That market price is used for exporting wheat to every country in the world; it is used as the basis to sell wheat to the domestic millers in this country; it is the market of the farmer who wishes to load a car and ship to the market and get the full price, basis Fort William, from which is deducted in his settlement the full freight charges plus all elevator costs. It is a market which reflects back to the farmer who accepts a street settlement for his grain, and again, sir, a price which reflects Fort William after the full freight and full elevator charges have been deducted. That is the farmer's market in Canada.

Now, sir, let us see what happens from then on. Let us take the International Wheat Agreement and its basis today. I mentioned a few moments ago the question of price equivalents. I shall not use for this illustration the deflation of money which brings our prices to \$1.98, but in general use, \$1.80 as the ceiling and \$1.50 as the floor. I sat through the conferences in London and two years in Washington as member of the Canadian Delegation in an advisory capacity. Our number 1 Northern wheat at Fort William is the base price for Australian and American wheat. Under the International Wheat Agreement, how did they arrive at it? You have \$1.80 as the ceiling price at Fort William. Then to arrive at the price equivalent for Gulf ports in the States in American dollars and to arrive at the ceiling price at Australia in sterling pounds, you take the \$1.80 and the full cost of arriving wheat into the

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U.K., cost, insurance and freight paid, then from that c.i.f. basis they work back the entire cost to Australia and work it out into pounds and determine what is the relative value of \$1.80, Fort William in Canadian dollars in relationship to the amount of money in pounds or shillings received by the Australian farmer at seaboard. Let us say that from the standpoint of the Australian his wheat is worth so much in Liverpool, London or Hamburg, if you will. Our wheat in this country is also worth so much in London, but its base price is \$1.80 at Fort William. Very definitely all charges back of that \$1.80 or of that price as quoted at Fort William, must be absorbed by the Western farmer. From then on I would say it is a theoretical argument as to who pays the freight, and I am not particularly interested; merely to say that here is wheat worth \$2.40 a bushel over in Liverpool and the farmer bringing his cost back clear to the country elevator: to say that he absorbs all the freight and all the cost to Liverpool because it is his price, is not too important. He does know that the price in Liverpool is reflecting within this cost a price at Fort William. and all the costs too. To me it doesn't make any difference. As you know, you can argue whether a farmer pays freight from Fort William, or whether the buyer or exporter in this country who charters boat space and ocean space, whether he would pay it. The open market system shows exactly the same question.

So I interpret this statement to mean this. You take a basis of \$1.80 at Fort William and compare that to a seaboard price in Australia or Gulf wheat. To equal Gulf wheat of course you would have to get this price down nearer to Montreal to compare that on the present price



MR. SINCLAIR: I wondered how much nearer Montreal.

THE WITNESS: I am sorry. I sat in court yesterday, and it so long since the U.K. have been buying wheat from this country basis Fort William. For the last two years, \$2.00, Churchill \$2.00, \$2.00 at the coast; and for the first two years \$1.55. The rest of the cost was taken care of by the British Ministry of Shipping. It has been rather difficult to get actual figures. I would say, guessing at it, 15¢ a bushel, Montreal rate of lading, with transfers and elevators and so on. I could be a few cents out on that.

MR. COVERT: Does that finish your statement?

A. Yes, sir.

---RECESS

(Page 19478 follows)





CROSS-EXAMINATION BY MR. SINCLAIR:-

Q. Mr. Wesson, you are a farmer from Maidstone, Saskatchewan?

A. Yes.

Q. And that is on the Canadian National, is it not?

A. That is right, sir.

Q. Did you read the evidence of Mr. Walker, the Chairman of the Canadian Pacific before this Commission?

A. No sir, I did not.

Q. Well, Mr. Wesson, Canadian Pacific, like you, is a great believer in the sanctity of contracts and he made that very clear when he was here. Now, I think if you read it you would find that the Canadian Pacific would be prepared today to carry out the contract made in 1897. Would that be satisfactory to you?

A. In its entirety?

Q. Yes.

A. You mean, sir, that it would only apply to those points in existence at that time?

Q. That is what the contract says.

A. I would say no, sir, it would not be satisfactory.

Q. You want something more than the contract provided?

A. No, I don't think we do.

Q. Well, if the contract applies only to points in existence farmers like yourself at Maidstone, Saskatchewan would not get the benefit of those low rates, would they?

A. On the original basis, no sir, that is true.

Q. So that you do want an extension of that contract?

A. An extension that would fit in with the ideas and the plans expressed by Sir Clifford Sifton about 1900 when he said that we want to settle Western Canada and might I say, that without the settlement of Western Canada



taking place as it did, I think we say in our brief that in 1948 the tonnage of freight and other commodities was much higher than the tonnage of grain. Had it not been for the settlement, sir, the Crow's Nest Pass Agreement would have been of no avail to the Canadian Pacific Railway at all or even the concessions which they received, even with the Smelters at Trail and all those other things. When the West was settled, the prairies were settled, it seems to me with the vision that Sir Clifford Sifton had in about the year 1900 and that that vision has now been realized, and it is obvious to me that while learned counsel may want to pin me down to saying that we are going to take the contract as it was in the first place, there was no inward freight to amount to anything at the time. If we are going to take the agreement as it was only for those points in existence then, I would say that we would have to ask for the contract to be changed in fairness to the population of Western Canada.

Q. You will be glad to know that, Mr. Wesson, that the Canadian Pacific has a very great interest in the prosperity of Western Canada and that is only natural?

A. I believe so.

Q. Now, that being so, and having two-thirds of its mileage in Western Canada, do you think that the Canadian Pacific would do anything that would bring economic ruin to the Western agricultural economy?

A. I would doubt that - knowingly.

Q. Now, your personal history was very interesting to me, Mr. Wesson.

A. Thank you.

Q. And the fact that you had bought land from the



Canadian Pacific under a land contract and I would just like to know if you had studied the land policies of the Canadian Pacific in any way at all?

A. No sir, it took me all my time to read the small writing on the contract we signed.

Q. Not smaller than the writing on the grain ticket, Mr. Wesson?

A. Just about the same.

Q. A little smaller on the grain ticket, isn't it?

A. No, I don't think so.

Q. You don't? Now, I would suggest to you that the Canadian Pacific Railway before the Farmers' Creditors Arrangement Act was enacted - and I emphasize that before realizing the position of Western farmers who had contracts, that the Canadian Pacific voluntarily waived sums of money that amounted to millions of dollars. Did you know that?

A. Yes, they waived some of our last payment on the quarter-section I bought in 1919. It was years and years overdue, and they waived some of that, not under the Farmers' Creditors Arrangement Act, but a private arrangement.

Q. Before the Farmers' Creditors Arrangement Act came into existence the Canadian Pacific did voluntarily waive?

A. I am not sure before or after.

THE CHAIRMAN: What did they waive - interest?

MR SINCLAIR: Yes, and they gave extensions, and I suggest that a reading of the Canadian Pacific land policy will show - and the method in which they treated their debtors under their land contracts will show that they had anticipated by some time all the arrangements of





the Farmers' Creditors Arrangement Act and voluntarily extended credit beyond that set forth in the legislation of the Dominion Government.

COMMISSIONER INNIS: What is the situation in regard to mineral rights, Mr. Sinclair?

MR SINCLAIR: In regard to mineral rights, Dr. Innis, I think it goes back quite a bit into history.

When the Dominion Government set aside one million acres to be made available to whoever would build the Canadian Pacific Railway, Sir John A. Macdonald, as I recall it, went to England and emphasized to the British Government that if they would loan this money that they would have the security of this land, and, to use the words in the memorandum that I have found to be in the public archives - "all the minerals they contain".

In spite of that offer, nobody could be found to take on the onerous task of building this railway. Now, when the Canadian Pacific contract was executed, Duncan McIntyre, I think the records show who had been doing the negotiations on behalf of the syndicate, said to the Government that they would much rather have much less land in exchange for a little more cash and I think they were prepared - the negotiations and papers are in the archives - that they were prepared to give up large blocks of land for less than one dollar an acre.

Now, the Canadian Pacific did, or course, receive not only the surface rights but the mineral rights. When the first contracts were made, in selling those lands some of the contracts do not contain a reservation of mineral rights to the company - others do.

COMMISSIONER INNIS: That is to say, any contract with the Government?





MR SINCLAIR: No, this is the contract with the purchasers.

THE CHAIRMAN: Between the Company and the purchasers?

MR SINCLAIR: That is right. In any contract with the Government, of course, we received the mineral rights but when the first contracts were made with the purchasers, they did not have reservations. The mineral rights were not reserved to the Company. Later, they had a reservation on coal and petroleum and then all minerals because it was deemed that the only mineral that was really worth while in some sections of the country was coal.

Now, the Canadian Pacific have lands on which they have all the minerals and on some of their land they have been fortunate enough to have had valuable mineral discoveries, but, even so, the returns from them are not equal to the extent to which many people think they are.

The Canadian Pacific, I don't think - I don't know of any case where the Canadian Pacific had rights that they could have sold for the very handsome figures that have been received by the Alberta Government for certain rights in the Redwater Field, for instance - figures of over \$3 million a section. Is that right, Mr. Frawley?

MR FRAWLEY: That is because you have not any land at Redwater. If you were as good bargainers as the Alberta Government, it would be different.

MR SINCLAIR: I just pointed out that we were not fortunate enough to have any of that land. I do know that between North Battleford and Lloydminster with the reservations we have - whether the reservations there contain oil, I don't know.



I presume Mr. Wesson does know and we have been fortunate that in one half-section at least of the territory we have found some oil.

THE WITNESS: Of the Canadian Pacific lands in the area, the mineral rights belong to your Company.

COMMISSIONER INNIS: Thank you very much, Mr. Sinclair.

MR SINCLAIR: I could go on for quite a bit more.

COMMISSIONER INNIS: You have to look into the contract to see just what the situation will be?

MR SINCLAIR: Yes, and it is a very difficult thing because we have some millions of acres of mineral rights in Western Canada. Some, I would say, are worthless; some are not.

Now, Mr. Wesson, I was rather interested in the statement that you made that the farmer got the Fort William price less the freight to Fort William and less handling charges to the country elevator?

A. That is right, sir.

Q. What are the handling charges in a Pool elevator a country point in Saskatchewan today?

A. For carload lots, which is the selling price under agreement, it is  $2\frac{1}{2}$  cents a bushel - in carload lots.

THE CHAIRMAN: Would you just repeat that?

A.  $2\frac{1}{2}$  cents per bushel under the Board of Grain Commissioners Agreement, sir. That is carload lots but the street price under the agreement with the Canadian Wheat Board for handling wheat, oats and barley is  $4\frac{1}{2}$  cents for wheat,  $4\frac{1}{2}$  cents for barley and  $3\frac{1}{2}$  cents for oats.

MR SINCLAIR: Now, you also have under your contract with the Wheat Board, certain other payments that

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you receive - isn't that right?

A. You mean storage charges?

Q. And others for handling grain?

A. No, no others - just the storage,  $1/25$ th of a cent per bushel per day plus interest. The combination of the two makes the carrying charge.

Q. Now, when you first made your contract with the Wheat Board, they set your payment at about  $4\frac{1}{2}$  cents to 5 cents a bushel on street sales - right?

A. When was this, sir?

Q. 1935.

A. There have been so many changes.

Q. Would that be about right, Mr. Wesson?

A. I am not too sure. Can I run through this just a moment?

Q. If you do not mind, Mr. Wesson, if I can just run through this little bit and then if you have anything to add, I would be very glad to hear it because I know you are going to help us.

THE CHAIRMAN: Would you put your question again?

MR SINCLAIR: I asked him whether in 1935 the figure was around  $4\frac{1}{2}$  cents to 5 cents per bushel.

THE WITNESS: Speaking from memory, I think it was 5 cents but I would not be sure.

Q. It is on account of the fact that grain could not be moved and a lot of grain was in storage in Western Canada?

A. That is right.

Q. And the pools, along with others having these great amounts of grain in storage, made very handsome sums of money?

A. After reducing the handling charges, sir.





Q. Now, I think I am right (you can correct me if I am wrong) that your handling charges in one year got down to 1¢ a bushel?

A. 1944, yes, sir.

Q. And the reason you were able to do that was because you were getting so much money or had built up such a fund from storage and other ways that you could afford to do that and still make ends meet. Is that correct?

A. No, sir, that is not the answer at all. The answer is that the storage earnings in 1944 were enormous and even in spite of handling the grain at 1¢ a bushel, Saskatchewan Pool Elevators after taking care of all interest and depreciation commitments had over \$2 million for distribution. It came from storage.

Q. After 1944 you continued your operation and you used up this amount of money you had made and I think your handling charges increased; isn't that correct?

A. Went back to 3¢ the following year.

Q. And today they are where?

A.  $4\frac{1}{2}$ ¢.

Q. Now, you fix, do you not, Mr. Wesson, the amount you receive for handling grain on the basis of the cost of providing the service?

A. We estimate a handling charge that will bring us in sufficient revenue based on volume so that at the end of the year we shall not be in the red.

Q. And you make a small profit -- or I should not use the word "profit"?

A. We do not make profits; we make surpluses.

Q. And you have set your prices so that you have some surplus?

A. We try to.

Q. Now, you have controlling the charges you make for



handling grain to country elevators, you have to satisfy the Government Board, the Board of Grain Commissioners?

A. Would you mind repeating that?

Q. The Board of Grain Commissioners have some jurisdiction over your charges to see that they are not unreasonable?

A. The handling charges and the storing charges only, the maximums in each case -- not the street prices; that is an agreement between the elevator companies and the Wheat Board.

Q. And the Board of Grain Commissioners also have jurisdiction over it, have they not?

A. Over the carload tariffs and the storage.

Q. And do you think that because handling charges on grain are not fixed by statute that the western farmer is in jeopardy?

A. Well, now, it depends, sir, on whether you are dealing with the present position or the experience that the farmers have gone through for many long years. I would say that thirty years ago and before the prices charged by the elevator companies were exorbitant. They took too much for granted.

MR MILLIKEN: Pardon me, I wonder if it would be better if Mr. Wesson moved from there. The sun is right in his eyes.

THE WITNESS: Oh, I guess it is all right; I can stand it.

MR SINCLAIR: Q. There are independent elevators operating in Western Canada today, are there not?

A. Yes, sir.

Q. And in some areas, some towns, there is no pool or U.G.G. Elevator, is there?

A. Very few in Saskatchewan.



Q. Now, let us take Toulon, Manitoba. Do you know that place?

A. No, I do not.

Q. For many years there was not a pool elevator although there is one now. Now, do you think the farmers suffered by delivering grain to Toulon, Manitoba, before there was a U.G.G. or pool elevator and when the rates for handling charges were not fixed by statute?

A. I would say from our towns today we --

Q. No, I am taking the situation at Toulon, Manitoba.

A. For what period?

Q. Before there was pool or U.G.G. elevator?

A. It would make a difference. The line elevator companies all charged the same prices.

THE CHAIRMAN: Have you in mind a time before the pool was created, Mr. Sinclair?

MR SINCLAIR: No, the point is, sir, there are a number of towns in the west now which are not serviced by either the U.G.G. or a pool which I look upon as co-operative organizations in one sense in that they pay --

THE WITNESS: In all senses.

MR SINCLAIR: Q. I do not want to get into that. I would just like to leave it the way I put it -- in one sense, and they pay patronage, dividends or sharing of profits, but there are other companies that are independent and I take it that you would agree with me, Mr. Wesson, that the farmers are not suffering on account of the fact that the handling charges are not fixed by statute?

A. They actually are fixed by statute.

Q. They are under the jurisdiction or they are under the control of the Board of Grain Commissioners?

A. And the Board of Grain Commissioners operate under the Canada Grain Act, and they have maximum charges,  $2\frac{1}{2}\phi$





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Mr. Wesson, cr-ex.

a bushel for a carload of grain. The elevator companies can charge less if they file the tariff and it is accepted. They cannot charge more. I am not too sure whether that is a regulation or a statute, Mr. Milliken?

MR MILLIKEN: I think that is a regulation.

MR SINCLAIR: Very much like freight rates; is that correct?

A. No, I would differentiate, sir, for this reason --

Q. I mean as to the procedure. That is all I am talking about just now.

A. Even as to procedure because, as I understand it, if railway rates are not compensatory then, of course, the bigger the volume the more money you lose, but with handling grain storage the elevator volume cuts cost and if you operate, for the sake of argument, at a capacity of 80,000 bushels and you handle 120,000, the point is this, that you create more surplus. It does not work exactly on the basis of your freight rates on the basis of your own argument.

Q. Well, of course, when you set or negotiated that part of the contract with the Wheat Board that deals with handling charges, you negotiated it on the basis of what you required to meet your cost?

A. We tried to.

Q. And give you something in addition; correct?

A. All depending upon volume we may achieve it.

Q. Yes, but that is what you have in mind?

A. Oh, yes.

Q. Now, I don't want to spend too much time, Mr. Wesson, because as a westerner and a Canadian Pacific Railway man, there are some very provocative statements in this brief, but I am going to have an opportunity of arguing before this Commission and I won't deal with them all. I just want you to know that there were some in there





that both as a westerner and a C.P.R. man I found rather provocative.

Now, you say on page 10:

"The arguments presently advanced by the C.P.R. are, for all practical purposes, the same as those offered by them before the Parliamentary Committee on Transportation in 1922. Indeed, the circumstances as they exist today, are similar in almost all respects to those which existed at that time."

Now, in 1922, Mr. Wesson, the ratio of net to gross earnings on the Canadian Pacific was 15.38. In 1948 that had fallen to 5.18.

THE CHAIRMAN: The first figure was?

MR SINCLAIR: 15.38, my lord -- now 5.18.

THE WITNESS: Could I ask you if you are dealing now with grain revenue or all freight?

MR SINCLAIR: All rail revenue.

MR SHEPARD: That is rail only, isn't it?

MR SINCLAIR: I said rail revenue. Now, that is one circumstance that is a little different today, I think you will agree?

THE WITNESS: It depends, sir, on how this question is to be approached from the standpoint of farm income and its relationship to the general economy of the Canadian Pacific Railway as well as the general economy of the country.

I think we have said in the brief in dealing with labour that there should be a balanced economy. I think I said before, if you would just let me carry on for a moment --

MR SINCLAIR: Q. Oh, yes, I am very sorry.

A. I said when learned counsel, Mr. Covert, asked the questions that I might have something to say in connection with what transpired between 1918 and 1922, and I anticipated



it would come in this examination.

In 1917 and the 1918 crop years, my lord will remember that we had a Wheat Commission in this country which took delivery of all the wheat at a fixed price.

THE CHAIRMAN: Q. A Wheat Board?

A. No, my lord, it was a Wheat Commission in 1917 and 1918.

MR MILLIKEN: Wheat supervisors, I think we called them.

THE WITNESS: And the farmer received a fixed price. Speaking from memory I think it was \$2.24 $\frac{1}{2}$  in the second year and then in 1919 or in readiness for the 1919 crop, the Wheat Board Act was passed, the first Wheat Board Act. It advanced the initial payment and later made final payment totalling in all, I think, \$2.81 or \$2.82 a bushel.

MR SINCLAIR: That was the total payment on wheat?

A. Yes, in 1919 the final payment paid by the Wheat Board. The farmers of Western Canada wanted it to continue. I think I have said before that while there was a little grumbling over the Crow's Nest Pass rates being suspended, just as long as the farm income was there, they did not pay much attention. I think it was once unanimous among the farmers after the 1919 operation by the Wheat Board for it to continue and to get away from the speculative market with all its fluctuating prices which they did not like and still do not like. However, we did not get a Wheat Board.

I can remember this announcement from the Grain Exchange officials when they said: "If the farmer will forget the Wheat Board and let the open market function, we will get him \$3.00 per bushel." They were not very far wrong, because in 1920 the price was \$2.73 a bushel but in 1921 the price had dropped down \$1.10 to a figure of \$1.63 in



one year and it was in that year the farmers questioned the suspension of the Crow's Nest Pass rates. Prices were going down, and might I say that the drop to \$1.63 a bushel had nothing to do with freight rates because freight rates remained unaltered during the entire period. That was in 1921 when the farmers started to put up their protest which resulted in that situation being changed.

I think learned counsel asked me what my opinion is regarding the position in 1922 and 1948. I would take it that during the 1922 year the Canadian Pacific would be enjoying these higher rates.

Q. They came off on July 6th in 1922?

A. In 1922, and I presume you are dealing with a calendar year and not a grain year?

Q. Calendar year.

A. You were dealing with -- you don't mind me asking a question for clarity?

Q. No, not at all.

A. In 1922 you would then have a bigger income from the first part of the year than the latter part, all depending on volume of tonnage moved?

Q. Quite so.

A. So that when you asked me the question about the difference between 15 per cent total income as against 5 per cent (I think that was the figure) I do not think I am in a position to answer that question at all.

THE CHAIRMAN: Well, Mr. Sinclair, we will resume tomorrow morning.

---The Commission adjourned at 4:45 p.m., to meet again at 10:30 a.m. on Wednesday, March 29, 1950.













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